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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AEA–05FR]

Establishment of Class E Airspace, Rome, NY; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the geographic coordinates of a final rule that was published in the **Federal Register** on March 28, 2001 (66 FR 16848), Airspace Docket No. 00–AEA–05FR, which established Class E airspace at Griffiss Airpark, Rome, NY.

EFFECTIVE DATE: September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY; 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

Federal Register document 01–7420, Airspace Docket No. 00–AEA–05FR, published on March 28, 2001 (66 FR 16848), established Class E airspace at Rome, NY. An error was discovered in the geographic coordinates for the Griffiss Airpark, Rome, NY. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Griffiss Airpark as published in the **Federal Register** on March 28, 2001 (66 FR 16848), are corrected as follows:

§ 71.1 [Corrected]

AEA NY E5 Rome, NY [Corrected]

1. On p. 16849, column 1, in the coordinates under Griffiss Airpark, correct ''(Lat. 43°14′04″ N/ long. 75°24′43″ W)'' to read ''(Lat. 43°14′02″ N/ long. 75°24′25″ W)''.

Issued in Jamaica, New York on June 1, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–15334 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 00F–1482]

Secondary Direct Food Additives Permitted in Food for Human Consumption

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ozone in gaseous and aqueous phases as an antimicrobial agent on food, including meat and poultry. This action is in response to a petition filed by the Electric Power Research Institute, Agriculture and Food Technology Alliance.

DATES: This rule is effective June 26, 2001. Submit written objections and requests for a hearing by July 26, 2001. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication listed in § 173.368(c), effective as of June 26, 2001.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 13, 2000 (65 FR 55264), FDA announced that a food additive petition (FAP 0A4721) had been filed by the Electric Power Research Institute, Agriculture and Food Technology Alliance, 2747 Hutchinson Ct., Walnut Creek, CA 94598. The petition proposed to amend the food additive regulations in part 173 (21 CFR part 173) to provide for the safe use of ozone in gaseous and aqueous phases as an antimicrobial agent for the treatment, storage, and processing of foods.

The proposed use would include the use of this additive on raw agricultural commodities (RACs) in the preparing, packing, or holding of such commodities for commercial purposes, consistent with section 201(q)(1)(B)(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(q)(1)(B)(i)), as amended by the Antimicrobial Regulation Technical Corrections Act of 1998 (ARTCA) (Public Law 105–324). The petitioner is not proposing that the additive be intended for use for any application under section 201(q)(1)(B)(i)(I), (q)(1)(B)(i)(II), or (q)(1)(B)(i)(III) of the act, which use would be subject to regulation by the Environmental Protection Agency (EPA) as a pesticide chemical. The proposed use of the additive includes the use to reduce the microbial contamination on RACs. Under ARTCA, the use of ozone as an antimicrobial agent on RACs in the preparing, packing, or holding of such RACs for commercial purposes, consistent with section 201(q)(1)(B)(i) of the act, and not otherwise included within the definition of ''pesticide chemical'' under section 201(q)(1)(B)(i)(I), (q)(1)(B)(i)(II), or (q)(1)(B)(i)(III) is subject to regulation by FDA as a food additive.

Although this use of ozone as an antimicrobial agent on RACs is regulated under section 409 of the act (21 U.S.C. 348) as a food additive, the intended use may nevertheless be subject to regulation as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Therefore, manufacturers intending to market ozone for such use should contact the EPA to determine whether this use requires a pesticide registration under FIFRA.

FDA has evaluated data in the petition and other relevant material.

Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulation in part 173 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this rule as announced in the notice of filing for FAP 0A4721. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by July 26, 2001. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.368 is added to subpart D to read as follows:

§ 173.368 Ozone.

Ozone (CAS Reg. No. 10028–15–6) may be safely used in the treatment, storage, and processing of foods, including meat and poultry (unless such use is precluded by standards of identity in 9 CFR part 319), in accordance with the following prescribed conditions:

(a) The additive is an unstable, colorless gas with a pungent, characteristic odor, which occurs freely in nature. It is produced commercially by passing electrical discharges or ionizing radiation through air or oxygen.

(b) The additive is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(c) The additive meets the specifications for ozone in the *Food Chemicals Codex*, 4th ed. (1996), p. 277, which is incorporated by reference. The Director of the Office of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20055, or may be examined at the Office of Premarket Approval (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(d) The additive is used in contact with food, including meat and poultry (unless such use is precluded by standards of identity in 9 CFR part 319), in the gaseous or aqueous phase in accordance with current industry standards of good manufacturing practice.

(e) When used on raw agricultural commodities, the use is consistent with section 201(q)(1)(B)(i) of the Federal Food, Drug, and Cosmetic Act (the act) and not applied for use under section 201(q)(1)(B)(i)(I), (q)(1)(B)(i)(II), or (q)(1)(B)(i)(III) of the act.

Dated: June 15, 2001.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–15963 Filed 6–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, 35, 36, 40, 301, and 601

[TD 8952]

RIN 1545–AY10

Removal of Federal Reserve Banks as Federal Depositaries

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations which remove the Federal Reserve banks as authorized depositaries for Federal tax deposits. The regulations affect taxpayers who make Federal tax deposits using paper Federal Tax Deposit (FTD) coupons (Form 8109) at Federal Reserve banks.

DATES: *Effective Date:* These regulations are effective June 26, 2001.

Applicability Date: These regulations apply to deposits made after December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Brinton T. Warren, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR parts 1, 31, 35, 36, 40, 301, and 601 relating to Federal tax deposits under section 6302(c) of the Internal Revenue Code (Code). On December 26, 2000, temporary regulations (TD 8918) relating to the removal of Federal Reserve Banks as federal depositaries were published in the **Federal Register** (65 FR 81356). A notice of proposed rulemaking that proposed the removal of Federal Reserve Banks as federal depositaries was published in the **Federal Register** for the same day (65 FR 81453). No comments were received from the public in response to the notice of proposed rulemaking.

Explanation of Provisions

These final regulations, which permanently remove Federal Reserve Banks as authorized depositaries for Federal tax deposits, adopt the rules of the proposed regulations and remove the corresponding temporary regulations. The term Federal Reserve Bank includes twelve banks and their approximately two dozen branches that constitute the nation's central banking system. The term does not include the thousands of federally and state chartered banks that are recognized as members of the Federal Reserve System. Accordingly, these final regulations do not affect Federal Tax Deposits (FTDs) made with paper coupons at any of the more than 10,000 financial institutions nationwide that serve as Treasury Tax and Loan (TT&L) depositaries. Deposits made through the Electronic Federal Tax Payment System (EFTPS) are also not affected.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Brinton T. Warren of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 35

Employment taxes, Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 36

Employment taxes, Foreign relations, Reporting and recordkeeping requirements, Social security.

26 CFR Part 40

Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Administrative practice and procedure, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 601

Administrative practice and procedure, Freedom of information, Reporting and recordkeeping requirements, Taxes.

Adoption of Amendments to the Regulations

Accordingly, and under the authority of 26 U.S.C. 7805 and 5 U.S.C. 301, 26 CFR parts 1, 31, 35, 36, 40, 301 and 601 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.6302–1 [Amended]

Par. 2. Section 1.6302–1 is amended by removing the fifth sentence in paragraph (b)(1).

§ 1.6302–2 [Amended]

Par. 3. Section 1.6302–2 is amended by removing the third sentence in paragraph (b)(1).

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 4. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 31.6302–1 [Amended]

Par. 5. Section 31.6302–1 is amended by removing the fourth sentence in paragraph (i)(3).

§ 31.6302(c)–3 [Amended]

Par. 6. Section 31.6302(c)-3 is amended by removing the third sentence in paragraph (b)(2).

PART 301—PROCEDURE AND ADMINISTRATION

Par. 7. The authority for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 301.6302–1T [Removed]

Par. 8. Section 301.6302–1T is removed.

PARTS 1, 31, 35, 36, 40, 301, 601 [AMENDED]

Par. 9. In the list below, for each section indicated in the left column, remove the language in the middle column and add, if any, the language in the right column:

Section	Remove	Add
1.1461–1(a)(1), first sentence	a Federal Reserve Bank or	an
1.1502–5(a)(1), fourth sentence	commercial dispositary or Federal Reserve Bank.	financial institution
1.6151–1(d)(1)	Federal Reserve Banks or	
1.6302–1(b)(1), fourth sentence	214 or, at the election of the corporation, to a Federal Reserve Bank.	203
1.6302–1(b)(1), fifth sentence	the Federal Reserve Bank or	
1.6302–2(a)(1)(i), first sentence	a Federal Reserve Bank or	an
1.6302–2(a)(1)(ii), first sentence	a Federal Reserve Bank or	an
1.6302–2(a)(1)(iv), first sentence	a Federal Reserve Bank or	an
1.6302–2(b)(1), second sentence	214 or, at the election of the withholding agent, to a Federal Reserve Bank.	203
1.6302–2(b)(1), third sentence	the Federal Reserve Bank or	
1.6302–3(a)	or with a Federal Reserve Bank	

Section	Remove	Add
31.6071(a)–1(a)(1), last sentence	or by a Federal Reserve Bank	
31.6071(a)–1(c), last sentence	a Federal Reserve Bank or by	
31.6151–1(b), first sentence	Federal Reserve Banks and	
31.6302–1(c)(1), first sentence	a Federal Reserve Bank or	an
31.6302–1(c)(2)(i) introductory text	a Federal Reserve Bank or	an
31.6302–1(c)(3) introductory text, first sentence	a Federal Reserve Bank or	an
31.6302–1(i)(3), third sentence	214 or, at the election of the employer, to a Federal Reserve Bank.	203
31.6302–1(i)(5)	the Federal Reserve Bank or	
31.6302(c)–2A(b)(1)(i)	with a Federal Reserve Bank or	
31.6302(c)–2A(b)(3)	with a Federal Reserve Bank or	
31.6302(c)–3(a)(1)(i)	with a Federal Reserve Bank or	
31.6302(c)–3(a)(1)(ii)	with a Federal Reserve Bank or	
31.6302(c)–3(a)(3)	with a Federal Reserve Bank or	
31.6302(c)–3(b)(2), second sentence	214 or, at the election of the employer, to a Federal Reserve Bank.	203
31.6302(c)–3(b)(2), third sentence	the Federal Reserve Bank or	
35.3405–1T,e–10A., first sentence	a Federal Reserve Bank or	
36.3121(l)(10)–4	a Federal Reserve Bank or	an
40.6302(c)–1(d)(1)	214 or to a Federal Reserve Bank	203
301.6302–1(a)	Federal Reserve Banks and authorized commercial banks.	authorized financial institutions
301.6302–1(b)(1)	Federal Reserve Banks or authorized commercial banks.	authorized financial institutions
301.6302–1(b)(2)	Federal Reserve Banks or authorized commercial banks.	authorized financial institutions
301.9100–5T(c) concluding text	Federal Reserve Banks and	
601.401(a)(5) heading	Federal Reserve Banks and	
601.401(a)(5)(iii), first sentence	a Federal Reserve Bank or	an
601.401(a)(5)(iii), second sentence	a Federal Reserve Bank or	an
601.401(a)(5)(iv), first sentence	a Federal Reserve Bank or a financial institution authorized in accordance with Treasury Department Circular No. 1079, revised, to accept remittances of these taxes for transmission to a Federal Reserve Bank.	an authorized financial institution

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: June 15, 2001.

Mark A. Weinberger,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 01–15747 Filed 6–25–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 357

[Department of the Treasury Circular, Public Debt Series, No. 2–86]

Determination Regarding State Statutes Adopting Revised Article 9 of the Uniform Commercial Code; Determination Regarding Rhode Island

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Determination of substantially identical state statute.

SUMMARY: A number of states have recently enacted laws adopting Revised Article 9 of the Uniform Commercial Code—Secured Transactions (''Revised Article 9''), which contains amendments to Revised Article 8 of the Uniform Commercial Code—Investment Securities (''Revised Article 8''). Treasury is confirming that for states for which it has previously published a determination that their statutes were ''substantially identical'' to the uniform version of Revised Article 8 for purposes of interpreting the rules in 31 CFR Part 357, Subpart B (the ''TRADES regulations''), such determination is not affected by a State's adoption of amendments in Revised Article 9. Treasury has also reviewed Rhode Island's enactment of Revised Article 8 and has determined that it is ''substantially identical'' to the uniform version of Revised Article 8 for purposes of the TRADES regulations.

EFFECTIVE DATE: June 26, 2001.

ADDRESSES: See Supplementary Information section for electronic access.

FOR FURTHER INFORMATION CONTACT: Geraldine J. Porco-Hubenko, Attorney-Advisor; Sandy Dyson, Attorney-Advisor; or Cynthia E. Reese, Deputy Chief Counsel; at (202) 691–3520.

SUPPLEMENTARY INFORMATION:

Electronic Access

Copies of this notice are available for downloading from the Bureau of the Public Debt home page at: *http://www.publicdebt.treas.gov.*

Background

On August 23, 1996, the Department of the Treasury (''we'') published a final rule to govern securities held in the commercial book-entry system, also referred to as the Treasury/Reserve Automated Debt Entry System (''TRADES''), 61 FR 43626. The regulations specify the jurisdiction whose law governs certain matters related to Treasury securities in the commercial book-entry system. Sections 357.10(c) and 357.11(d) of the regulations provide that if the jurisdiction is a state that has not adopted Revised Article 8, then the applicable law is the law of that state as though Revised Article 8 had been adopted by that state. ''Revised Article 8'' is defined in the regulations as the Official Text adopted by the National Conference of Commissioners on Uniform State Laws and the American Law Institute.

In the commentary to the final regulations, we stated that for the 28

states that had by then adopted Revised Article 8, the versions enacted were ''substantially identical'' to the uniform (official) version for purposes of the rule. We also indicated in the commentary that as additional states adopted Revised Article 8, we would provide notice in the **Federal Register** as to whether the enactments were substantially identical to the uniform version so that the federal application of Revised Article 8 would no longer be in effect for those states. We adopted this approach in an attempt to provide certainty in application of the rule in response to public comments.

We have subsequently published notices setting forth our determination concerning 22 additional states' enactment of Revised Article 8. See 62 FR 26, January 2, 1997; 62 FR 34010, June 18, 1997; 62 FR 61912, November 20, 1997; 63 FR 20099, April 23, 1998; 63 FR 35807, July 1, 1998; and 63 FR 50159, September 21, 1998. Thus, a total of 50 jurisdictions (including the District of Columbia and Puerto Rico, which are treated as states), have enacted statutes substantially identical to the uniform version of Revised Article 8.

Revised Article 9

At least 42 states [1] that were determined by Treasury to have statutes ''substantially identical'' to Revised Article 8 for purposes of the TRADES regulations, have now enacted Revised Article 9. Revised Article 9 includes conforming amendments to Article 8, and also amends provisions in Article 9 that were part of the conforming amendments to Revised Article 8. Revised Article 9 will become effective on July 1, 2001, in the vast majority of states that have enacted it.

In promulgating the final TRADES regulations, we responded to a comment asking about the potential situation where a state, after having enacted Revised Article 8 and having it deemed by Treasury as ''substantially identical'' to the uniform version, then amends its law in a manner that results in an unsatisfactory lack of uniformity. We stated that once Treasury has announced its determination with respect to a state's enactment of Revised Article 8, the market is entitled to rely on that decision. We further stated that in such an unlikely event as described, Treasury had the authority to take action that would result in §§ 357.10(c) and 357.11(d) being reapplied, and would publish such action in the **Federal Register**. In this context, one specific comment was also received concerning the revision of Article 9, which had begun at that time. The commenter noted that the revision process might lead to the result that a state could adopt provisions different than those in Revised Article 8. We stated: ''Treasury does not anticipate that such an event would result in the need to reapply §§ 357.10(c) and 357.11(d). If that were necessary, Treasury would take the same action, after notice, as described herein'' [i.e., publish a notice in the **Federal Register**].'' [2]

By this notice, we affirm Treasury's prior determinations that a state statute is ''substantially identical'' to the uniform version of Revised Article 8, even if that state subsequently enacts the provisions of the uniform version of Revised Article 9 (with conforming amendments) that amend the uniform version of Article 8 (with conforming amendments). After review of these provisions in Revised Article 9, we see no need to reapply §§ 357.10(c) and 357.11(d) to any such state. Furthermore, consistent with the discussion above, we do not anticipate that a state's non-conforming amendments to other parts of Revised Article 9 would result in the need to reapply §§ 357.10(c) and 357.11(d). The market may rely on this determination unless Treasury publishes a notice to the contrary in the **Federal Register**.

We have identified several provisions in Revised Article 9 that may require technical or conforming changes to the TRADES regulations. [3] We plan to issue a rule-making document in ''plain language'' format, in the near future. We will coordinate with the Government Sponsored Enterprises (GSEs) and other agencies having rules modeled on the TRADES rules, in an effort to maintain consistency among all these rules.

Rhode Island

Rhode Island has recently enacted Article 8. We note that Rhode Island's enactment of Article 8 includes revisions made by Revised Article 9 (1998), which was also enacted. We have reviewed these changes, and consistent with the discussion above, conclude that the law enacted by Rhode Island is ''substantially identical'' to the uniform version of Revised Article 8 for purposes of the TRADES rules. Therefore, if either § 357.10(b) or § 357.11(b) directs a person to Rhode Island, the provisions of §§ 357.10(c) and 357.11(d) of the TRADES rules are not applicable.

Dated: June 20, 2001.

Van Zeck,

Commissioner of the Public Debt.

[FR Doc. 01–15985 Filed 6–25–01; 8:45 am]

BILLING CODE 4810–39–P

[1] The states are: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.

[2] 61 FR 43627, August 23, 1996, FN 4.

[3] For example, Revised § 8–110(e)(1)

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD11–01–003]

RIN 2115–AA98

Anchorage Regulation; San Francisco Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the anchorage boundaries for Anchorages 8, 9, and 24, and specifying procedures for vessels intending to be in a ''dead ship'' status in the San Francisco Bay Anchorage Grounds. The regulations concerning use of the anchorage by vessels, and the activities permitted in the anchorage areas are not affected by the change in shape and size of these anchorages.

DATES: This rule is effective July 26, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD11–01–003], and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Bldg. 14, Coast Guard Island, Alameda, CA 94501, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Patricia Springer, Vessel Traffic Management Section, Coast Guard Eleventh District/Pacific Area, (510) 437–2943, email: pspringer@d11.uscg.mil.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 28, 2001, we published a notice of proposed rulemaking (NPRM) entitled Anchorage Regulation; San Francisco Bay, California in the **Federal Register** (66 FR 12742). We did not receive any letters commenting on

the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

Due to changing uses of the waterways in the San Francisco Bay region—including the closure of Naval Air Station Alameda, the trend of larger ships arriving in the Bay, and the anticipated growth of faster Marine Transportation Systems—mariners have requested changes to several anchorage grounds. Recent situations have demanded increased use and space for Anchorages 8 and 9. Vessels have had to take anchor while awaiting the departure of another at berth. Periodic labor strikes and disputes have caused delays in the turnaround time of cargo, which in turn have filled the anchorages to capacity. In general, this rule allows more room for the anchorages while enhancing safer and more efficient use of the waterways through San Francisco Bay and the Carquinez Strait.

The Coast Guard conducted a Waterways Analysis and Management study of the San Pablo Bay and Carquinez Strait in late 1998. One of the recommendations of the study, which was based primarily on the comments of mariners using the waterway, was to make better use of the navigable waters of the Carquinez Strait just south-southeast of Southampton Bay. The Coast Guard has established a buoy marking the edge of the useable channel just west-southwest of Commodore Jones Point, effectively shrinking the area that is currently Anchorage 24.

Currently, safety measures for anchoring in the San Francisco Bay in a dead-ship status are addressed by individual COTP orders. The term ''dead ship'' refers to when a vessel's propulsion or control is unavailable for normal operations. This rule will enhance the safety of navigation in the area by designating a dead-ship anchorage, away from usual areas of navigation on the bay, and by uniformly requiring the assistance of a tugboat when anchoring in a dead ship status. Also, the owner/operator will now be able to make its own arrangements for a tug without having to gain the approval of the COTP before proceeding to the dead-ship anchorage.

Discussion of Comments and Changes

We did not receive any letters commenting on the proposed rule. The final rule has not been changed from the proposed language, except to make a technical amendment. In paragraph 2.c. of the amendatory language of the NPRM, we incorrectly stated we were revising subparagraphs (e)(5), (e)(6) and (e)(17) of paragraph (d). We have corrected the incorrect reference to paragraph (d) here.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The changes in the size and shape of anchorage areas are slight and the purpose is to conform to the changed use of the harbor and to make best use of available water. As for implementing the dead ship regulation, this rulemaking simply makes official in the regulation what has already been in practice.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Andrew B. Cheney, U.S. Coast Guard Marine Office San Francisco Bay at (510) 437–3073.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(f) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. In the above referenced Coast Guard policy instruction, the Coast Guard has determined that no further environmental documentation is required when changing the size of Special Anchorage Areas or anchorage grounds, or when disestablishing or reducing the size of the Area or grounds, as in Anchorage No. 24. Because the

Coast Guard is increasing the size of Anchorages No. 8 and 9, the Coast Guard has completed a Categorical Exclusion Document (CED), which is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—[AMENDED]

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 110.224 is amended as follows:

a. Add a new paragraph (a)(18);

b. In paragraph (d), revise Table 110.224(D)(1) and add a new paragraph m to Notes at the end of the table; and

c. Revise paragraphs (e)(5), (e)(6), and (e)(17) to read as follows:

§ 110.224 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters, CA.

(a) * * *

(18) No vessel may anchor in a ''dead ship'' status (propulsion or control unavailable for normal operations) at any anchorage other than in Anchorage 9 as specified in Table 110.224(D)(1) without prior approval of the Captain of the Port.

* * * * *

(d) * * *

TABLE 110.224(D)(1)

Anchorage No.	General location	Purpose	Specific regulations
4	San Francisco Bay	General	Notes a, b.
5	....do	....do	Do.
6	....do	....do	Note a.
7	....do	....do	Notes a, b, c, d, e.
8	....do	....do	Notes a, b, c.
9	....do	....do	Notes a, b, m.
10	....do	Naval	Note a.
12	....do	Explosives	Notes a, f.
13	....do	....do	Notes a, e, g.
14	....do	....do	Notes a, f, h.
18	San Pablo Bay	General.	
19	....do	....do	Note b.
20	....do	....do.	
21	....do	Naval.	
22	Carquinez Strait	General.	
23	Benicia	General	Notes c, d, e, l.
24	Carquinez Strait	General	Note j.
26	Suisan Bay	....do	Note k.
27	....do	....do.	
28	San Joaquin River	....do.	
30	....do	Explosives.	

Notes: a. When sustained winds are in excess of 25 knots each vessel greater than 300 gross tons using this anchorage shall maintain a continuous radio watch on VHF channel 13 (156.65 MHz) and VHF channel 14 (156.70 MHz). This radio watch must be maintained by a person who fluently speaks the English language.

b. Each vessel using this anchorage may not project into adjacent channels or fairways.

c. This anchorage is primarily for use by vessels requiring a temporary anchorage waiting to proceed to pier facilities or other anchorage grounds. This anchorage may not be used by vessels for the purpose of loading any dangerous cargoes or combustible liquids unless authorized by the Captain of the Port.

d. Each vessel using this anchorage may not remain for more than 12 hours unless authorized by the Captain of the Port.

e. Each vessel using this anchorage shall be prepared to move within 1 hour upon notification by the Captain of the Port.

f. The maximum total quantity of explosives that may be on board a vessel using this anchorage shall be limited to 3,000 tons unless otherwise authorized with the written permission of the Captain of the Port.

g. The maximum total quantity of explosives that may be on board a vessel using this anchorage shall be limited to 50 tons except that, with the written permission of the Captain of the Port, each vessel in transit, loaded with explosives in excess of 50 tons, may anchor temporarily in this anchorage provided that the hatches to the holds containing explosives are not opened.

h. Each vessel using this anchorage will be assigned a berth by the Captain of the Port on the basis of the maximum quantity of explosives that will be on board the vessel.

i. [Reserved]

j. Each vessel using this anchorage shall promptly notify the Captain of the Port, upon anchoring and upon departure.

k. See § 162.270 of this title establishing restricted areas in the vicinity of the Maritime Administration Reserve Fleet.

l. Vessels using this anchorage must exceed 15 feet draft, have engines on standby, and have a pilot on board.

m. Any vessel anchoring in a ''dead-ship'' status shall have one assist tug of adequate bollard pull on standby and immediately available (maximum of 15 minute response time) to provide emergency maneuvering. When the sustained winds are 20 knots or greater, or when the wind gusts are 25 knots or greater, the tug must be alongside.

(e) * * *

(5) *Anchorage No. 8.* In San Francisco Bay bounded by the west shore of Alameda Island and the following lines: Beginning at 37°47′52″ N, 122°19′58″ W; thence west-northwesterly to 37°48′02.5″ N 122°21′01.5″ W; thence west-southwesterly to 37°47′51.5″ N, 122°21′40″ W; thence south-southwesterly to 37°47′35.5″ N, 122°21′50″ W; thence south-southeasterly to 37°46′40″ N, 122°21′23″

W; thence easterly to 37°46′36.5″ N, 122°19′52″ W; thence northerly to shore at 37°46′53″ N, 122°19′53.5″ W (NAD 83).

(6) *Anchorage No. 9.* In San Francisco Bay bounded on the east by the eastern shore of San Francisco Bay and on the north by the southern shore of Alameda Island and a line beginning at 37°46′21.5″ N, 122°19′07″ W; thence westerly to 37°46′30″ N, 122°21′56″ W; thence south-southeasterly to 37°41′45″ N, 122°20′22″ W (San Bruno Channel Light 1); thence south-southeasterly to 37°38′38.5″ N, 122°18′48.5″ W (San Bruno Channel Light 5); thence southeasterly to 37°36′05″ N, 122°14′18″ W; thence northeasterly to shore at 37°37′38.5″ N, 122°09′06.5″ W (NAD 83).

* * * * *

(17) *Anchorage No. 24.* Bounded by the north shore of Carquinez Strait and the following points: Beginning on the shore at Dillon Point at 38°03′44″ N, 122°11′34″ W; thence southeasterly to 38°03′21″ N, 122°10′43″ W; thence southeasterly to 38°02′36″ N, 122°10′03″ W (Carquinez Strait Light 23); thence to the shore at the Benicia City Wharf at 38°02′40″ N, 122°09′55″ W (NAD 83).

* * * * *

Dated: June 11, 2001.

E.R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 01–15996 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–038]

RIN 2115–AA97

Safety Zone; Wings Over Lake Air Show, Michigan City, IN

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Wings Over The Lake Air Show in Michigan City, Michigan. This safety zone is necessary to protect vessels and spectators from potential aircraft hazards during a planned air show over Lake Michigan. The safety zone is intended to restrict vessels from a portion of Lake Michigan off Michigan City, Indiana.

DATES: This rule is effective from 4 p.m. (local) to 6 p.m. (local), July 8, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–038] and are available for inspection or copying at Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60521, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office, 215 W. 83rd Street, Suite D, Burr Ridge, IL 60521. The telephone number is (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with an air show. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Chicago or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in a portion of Lake Michigan from 4 p.m. to 6 p.m., July 8, 2001. This regulation would not have a significant economic impact for the following reasons. The regulation is only in effect for only two hours on one day. The designated area is being established to allow for maximum use of the waterway for commercial vessels to enjoy the air show in a safe manner. In addition, commercial vessels transiting the area can transit around the area. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–928 is added to read as follows:

§ 165.T09–928 Safety Zone: Lake Michigan, Michigan City, IN.

(a) *Location.* The following area is a safety zone: The waters of Lake Michigan off Washington Park encompassed by a box starting at 250 feet from the East Pierhead and 250 feet from Washington Park Beach in the approximate location of 41°43′39″ N, 086°54′32″ W to 41°44′06″ N, 086°54′44″ W to 41°43′55″ N, 086°53′40″ W to 41°44′21″ N, 086°53′52″ W. (NAD 1983).

(b) *Effective Time and Date.* This regulation is effective from 4 p.m. (local) and terminates at 6 p.m. (local), on July 8, 2001.

(c) *Regulations.* This safety zone is being established to protect the boating public during a planned air show. In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on VHF Channel 16.

Dated: June 11, 2001.

R.E. Seebald,

Captain, U.S. Coast Guard, Captain of the Port Chicago.

[FR Doc. 01–15991 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–052]

RIN 2115–AA97

Safety Zone—Lake Erie, Huron, OH

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Huron River, Huron, Ohio. This safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays. This zone is intended to restrict vessels from a portion of Huron River for the City of Huron Red, White and Blue Bang, July 07, 2001, fireworks display.

DATES: This rule is effective from 10 a.m. until 11 p.m. on July 7, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–052] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Toledo, 420 Madison Ave, Suite 700, Toledo, Ohio, 43604 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Herb Oertli, Chief of Port Operations, Marine Safety Office, 420 Madison Ave, Suite 700, Toledo, Ohio 43604; (419) 418–6050.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule it effective less than 30 days after publication in the **Federal Register**. The Coast Guard had insufficient advance notice to publish an NPRM followed by a temporary final rule. Publication of a notice of proposed rulemaking and delay of the regulation's effective date would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

This temporary rule is necessary to ensure the safety of spectators and

vessels during the setup, loading and launching of a fireworks display in conjunction with the City of Huron July 7, 2001, fireworks. The fireworks display will occur between 10 a.m. and 11 p.m. on July 7th.

This safety zone will encompass all waters and the adjacent shoreline of Huron River Boat Basin, Huron, Ohio, bounded by an arc of a circle with a 560-foot radius with its center in approximate position 41°23′45″ N, 082°32′55″ W. The Captain of the Port Toledo or his designated on scene representative may terminate this event.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Toledo or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). This finding is based on the historical lack of vessel traffic during this time of year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of Huron River Boat Basin off Huron, Ohio.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only a few hours on one day, and vessel traffic can pass safely around the safety zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Toledo (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T09–922 is added as follows:

§ 165.T09–922 Safety zone: Huron River, Huron, Ohio.

(a) *Location:* All waters and the adjacent shoreline of Huron River Boat Basin, Huron, Ohio, bounded by the arc of a circle with a 560-foot radius with its center in approximate position 41°23′45″ N, 082°32′55″ W. (NAD 1983).

(b) *Effective Period.* This regulation is effective from 10 a.m. until 11 p.m., July 07, 2001.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 7, 2001.

David L. Scott,

Commander, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01–15994 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–059]

RIN 2115–AA97

Safety Zone: Milwaukee Harbor, Milwaukee, WI.

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Milwaukee Harbor for the German Fest 2001 fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone is intended to restrict vessel traffic from a portion of the Milwaukee Harbor, Milwaukee, Wisconsin.

DATES: This temporary rule is effective from 9:50 p.m. until 10:30 p.m. (CST) on July 27th through July 29th, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–059] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application did not allow sufficient time for publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

Background and Purpose

This safety zone is established to safeguard the public from the hazards associated with the launching of fireworks in Milwaukee Harbor, Milwaukee, Wisconsin. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone will be in effect on July 27th through July 29th, from 9:50 p.m. until 10:30 p.m.(CST) each day. The safety zone will encompass all waters bounded by the following coordinates: from the point of origin at 43°02.209′ N, 087°53.714′ W; southeast to 43°02.117′ N, 087°53.417′ W; south to 43°01.767′ N, 087°53.417′ W; southwest to 43°01.555′ N, 087°53.772′ W; then north along the shoreline back to the point of origin. All coordinates in this section reference 1983 North American Datum (NAD83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in the vicinity of Harbor Island in Milwaukee's outer harbor from 9:50 p.m. (CST) until 10:30 p.m. (CST) on July 27th through July 29th, 2001.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only forty minutes on three days, late in the day when vessel traffic is minimal. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative. Before the effective period, we will issue maritime advisories widely available to users of the Milwaukee Harbor.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If

the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (See **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–942 is added to read as follows:

§ 165.T09–942 Safety Zone: Milwaukee Harbor, Milwaukee, Wisconsin.

(a) *Location.* The safety zone will encompass all waters of the Milwaukee Harbor bounded by the following coordinates: from the point of origin at 43°02.209'' N, 087°53.714′ W; southeast to 43°02.117′ N, 087°53.417′ W; south to 43°01.767′ N, 087°53.417′ W; southwest to 43°01.555′ N, 087°53.772′ W; then north along the shoreline back to the point of origin. All coordinates in this section reference 1983 North American Datum (NAD83).

(b) *Effective times and dates.* From 9:50 p.m. until 10:50 p.m. daily from July 27th through July 29th, 2001.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely effect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: June 14, 2001.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port, Milwaukee, Milwaukee, Wisconsin.

[FR Doc. 01–15995 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–057]

RIN 2115–AA97

Safety Zone—Lake Erie, Huron, OH

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Huron River, Huron Ohio. This safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays. This zone is intended to restrict vessels from

a portion of Huron River for the City of Huron River Fest, July 14, 2001, fireworks display.

DATES: This rule is effective from 10 a.m. until 11 p.m. on July 14, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–057] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Toledo, 420 Madison Ave, Suite 700, Toledo, Ohio, 43604 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lt. Herb Oertli, Chief of Port Operations, Marine Safety Office, 420 Madison Ave., Suite 700, Toledo, Ohio 43604; (419) 418–6050.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard had insufficient advance notice to publish an NPRM followed by a temporary final rule. Publication of a notice of proposed rulemaking and delay of the regulation's effective date would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

This temporary rule is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the City of Huron July 14, 2001 Fireworks. The fireworks display will occur between 10 a.m. and 11 p.m. on July 14th.

This safety zone will encompass all waters and the adjacent shoreline of Huron River Boat Basin, Huron, Ohio, bounded by an arc of a circle with a 560-foot radius with its center in approximate position 41°23′45″ N, 082°32′55″ W. The Captain of the Port Toledo or his designated on scene representative may terminate this event.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Toledo or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). This finding is based on the historical lack of vessel traffic during this time of year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of Huron River Boat Basin off Huron, Ohio.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only a few hours on one day, and vessel traffic can pass safely around the safety zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Toledo (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and

concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–923 is added as follows:

§ 165.T09–923 Safety zone: Huron River, Huron, Ohio.

(a) *Location.* All waters and the adjacent shoreline of Huron River Boat Basin, Huron, Ohio, bounded by the arc of a circle with a 560-foot radius with its center in approximate position 41°23′45″ N, 082°32′55″ W. (NAD 1983).

(b) *Effective Period.* This regulation is effective from 10 a.m. until 11 p.m., July 14, 2001.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 12, 2001.

David L. Scott,

Commander, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01–15997 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR PART 165

[CGD09–01–045]

RIN 2115–AA97

Safety Zone: Kewaunee Annual Trout Festival, Kewaunee Harbor, Lake Michigan, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Kewaunee Annual Trout Festival fireworks display on July 13th, 2001. This safety zone is necessary to ensure the safety of persons and property in this area during the event. This safety zone is intended to restrict vessel traffic from a portion of Kewaunee Harbor.

DATES: This temporary final rule is effective from 9:30 p.m. until 10:30 p.m. on July 13th, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–045] and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received with sufficient time to publish an NPRM followed by a temporary final rule that would be effective before the required effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Milwaukee has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of person and property at these events and help minimize the associated risk.

The safety zone will be in effect on July 13th, from 9:30 p.m. (CST) until 10:30 p.m. (CST). The safety zone will encompass all waters bounded by the arc of a circle with a 800-foot radius with its center in approximate position 44°27′30″ N, 087°29′45″ W, offshore of Kewaunee Festival Grounds, Kewaunee Harbor, Lake Michigan, Wisconsin. The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone, and the fact that the activated zone is located in an area where the Coast Guard expects insignificant adverse impact to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of commercial vessels intending to transit a portion of the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the zone is only in effect for one hour of one day; vessel traffic can safely pass outside the safety zone during the event; and traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Milwaukee. Before the effective period, we will issue maritime advisories widely available to users of the Port of Kewaunee by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–935 is added to read as follows:

§ 165.T09–935 Safety Zone: Kewaunee Annual Trout Festival Fireworks Display, Kewaunee Harbor, Lake Michigan, Wisconsin.

(a) *Location.* The safety zone will encompass all waters bounded by the arc of a circle with a 800-foot radius with its center in approximate position 44°27′30″ N, 087°29′45″ W located off of Kewaunee Festival Grounds, Kewaunee Harbor, Lake Michigan, Wisconsin.

(b) *Effective Time and Date.* This section is effective from 9:30 p.m. (local time) until 10:30 p.m. (local time) on July 13th, 2001.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Milwaukee, or his designated on scene representative. The designated on scene Patrol Commander may be contacted via VHF Channel 16.

Dated: June 8, 2001.

M R. Devries,

Commander, U.S. Coast Guard, Captain of the Port Milwaukee.

[FR Doc. 01–15998 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 173

[USCG 1999–6094]

RIN 2115–AF87

Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule; partial suspension of rule with request for comments.

SUMMARY: On May 1, 2001, the Coast Guard published a final rule raising the threshold of damage to property for reports of accidents involving recreational vessels when damage to vessels and other property totals $2,000 or more in any one accident. The rule also included a second provision requiring reports of collisions involving two or more vessels resulting exclusively in damage to property, regardless of the amount of such damage. After issuance of the rule, a State Boating Law Administrator expressed concern about the second provision. Because of this concern, we are suspending that provision and are inviting comments on the provision.

DATES: *Effective date:* July 2, 2001. Comments must reach the Facility specified in **ADDRESSES** on or before September 24, 2001.

ADDRESSES: Identify your comments and related material by the docket number for this rulemaking [USCG–1999–6094]. To make sure they do not enter the docket more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand-delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Internet Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, at the address listed above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.* You may obtain a copy of this partial suspension of final rule by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet, at the Web Site for the Office of Boating Safety, at *http://www.uscgboating.org* or at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, contact Bruce Schmidt, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202–267–0955 or by e-mail at *bschmidt@comdt.uscg.mil.* For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

The regulatory history for this rulemaking appears in the preamble of the final rule entitled ''Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels'' [66 FR 21671 (May 1, 2001)].

Reason for Partial Suspension of Effective Date

After issuance of the final rule, a State Boating Law Administrator expressed concern about a provision in the rule requiring reports of all collisions involving two or more vessels resulting exclusively in damage to property, regardless of the amount of such damage.

Currently, few States have statutory authority to require reports of multi-vessel accidents that result neither in personal injury nor in any damage to property. Further, States' legislative calendars preclude compliance by the published effective date, July 2, 2001. We note that States' legislation would be unnecessary if the provision for reporting collisions of two or more vessels included a threshold of $500, since all States do now maintain such a threshold. In response to the concern raised about the impacts on States' legislation, the Coast Guard has decided to suspend the provision in 33 CFR 173.55(a)(3), requiring a report whenever ''* * * a collision occurs involving two or more vessels, regardless of the amount of damage to property; * * *'', and to provide a 90-day comment period on the provision. To facilitate the editorial handling of this suspension, Coast Guard is designating this provision as paragraph (a)(3)(ii) of § 173.55. The first provision raising the threshold of damage to $2000 is designated as paragraph (a)(3)(i) and remains effective July 2, 2001.

Request for Comments

We encourage you to participate in this rulemaking by submitting to the Facility specified in **ADDRESSES** comments and related material limited to the requirements of the provision in newly designated 33 CFR

173.55(a)(3)(ii). We will consider all comments received during the comment period and may change 33 CFR 173.55(a)(3) in response to the comments.

Dated: June 19, 2001.

Kenneth T. Venuto,

Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Operations.

For the reasons set forth in the preamble, 33 CFR part 173 is amended as follows:

PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

1. The authority citation for part 173 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A–25; 49 CFR 1.46.

§ 173.55 [Amended]

2. In § 173.55 in paragraph (a)(3), the text reading ''Damage to vessels and other property totals $2000 or more or there is a complete loss of any vessel; or'' is designated as paragraph (a)(3)(i), and the remainder of the paragraph is designated as paragraph (a)(3)(ii) and suspended indefinitely.

[FR Doc. 01–15838 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 17 and 59

RIN 2900–AJ43

Grants to States for Construction and Acquisition of State Home Facilities

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document establishes regulations regarding grants to States for the construction or acquisition of State homes for furnishing domiciliary and nursing home care to veterans, or for the expansion, remodeling, or alteration of existing State homes for furnishing domiciliary, nursing home, or adult day health care to veterans. This is necessary to update the regulations and to implement statutory provisions, including provisions of the Veterans Millennium Health Care and Benefits Act.

DATES: *Effective Date:* June 26, 2001. Comments must be received by VA on or before August 27, 2001.

The incorporation by reference of certain publications in this rule is approved by the Director of the Office of the Federal Register as of June 26, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AJ43.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Frank Salvas, Chief, State Home Construction Grant Program (114), Veterans Health Administration, 202–273–8534.

SUPPLEMENTARY INFORMATION: This document establishes regulations regarding grants to States for the construction or acquisition of State homes for furnishing domiciliary and nursing home care to veterans, or for the expansion, remodeling, or alteration of existing State homes for furnishing domiciliary, nursing home, or adult day health care to veterans. The rule, which is set forth in a new 38 CFR part 59, consists of a comprehensive rewrite of the regulations set forth in 38 CFR 17.210 through 17.222. The substantive differences from the previous regulations are discussed below.

Public Law 102–585 changed from 90 days to 180 days the time limit for States receiving a conditionally-approved grant to fully comply with the requirements for a grant. The rule reflects this statutory provision.

Under authority of Public Law 104–262 (enacted on October 9, 1996), the rule includes provisions for awarding grants to States to expand, remodel, or alter existing buildings for furnishing adult day health care.

The rule also includes provisions to implement statutory provisions established by the Veterans Millennium Health Care and Benefits Act (Public Law 106–117, enacted on November 30, 1999). This Act made the following changes that are reflected in the rule:

- The Act requires VA to prescribe for each State the number of nursing home and domiciliary beds for which grants may be furnished. This is required to be based on the projected demand for nursing home and domiciliary care on November 30, 2009 (10 years after the date of enactment of the Veterans Millennium Health Care and Benefits Act (Pub. L. 106–117)), by veterans who at such time are 65 years of age or older and who reside in that State. In determining the projected demand, VA must take into account travel distances for veterans and their families.
- The Act sets forth new criteria for determining the order of priority for grants for projects, including provisions regarding whether the need for a bed-producing project is great, significant, or limited.
- The Act provides that VA may not accord any priority to projects for the construction or acquisition of a hospital.
- The Act provides that a State may not request a grant for a project for which the total cost of construction is not in excess of $400,000.
- The Act provides that a grant may not include maintenance and repair work.
- The Act requires an application for a grant for construction or acquisition of a nursing home or a domiciliary facility to include the following in the application for a grant:

(1) Documentation that the site of the project is in reasonable proximity to a sufficient concentration and population of veterans that are 65 years of age and older and that there is a reasonable basis to conclude that the facility when complete will be fully occupied,

(2) A financial plan for the first three years of operation of such facility, and

(3) A five-year capital plan for the State home program for that State.

The rule also includes provisions to reflect that, under Public Law 106–419, VA will not recapture amounts for all or portions of a facility that was changed to an outpatient clinic established and operated by VA.

As noted above, the Veterans Millennium Health Care and Benefits Act sets forth new criteria for determining the order of priority for grants for projects. We have also created new subpriorities for each priority category that reflect the statutory priority scheme. In addition, further subpriorities in ''priority group 1—subpriority 1'' are established to give higher priorities to the most urgently needed projects. Further subpriorities in ''priority group 1—subpriority 4'' are established to give higher priority to projects that we have determined are most needed for care of veterans. As a last resort for ties in subpriorities, the rule will give projects priority based on the earliest dates of receipt by VA of applications.

For a State's application to be included in priority group 1, a State must have made sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant

without further action required by the State (such as subsequent issuance of bonds) to make such funds available for such purpose. To meet this criteria, the State must provide to VA a letter from an authorized State budget official certifying that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action to make such funds available. If the certification is based on an Act authorizing the project and making available the State's matching funds for the project, a copy of the Act must be submitted with the certification.

Previously, at the time of prioritizing applications, instead of the whole amount, a State was merely required to provide a copy of an Act making available at least one-half of the State's matching funds for the project. We propose to require the full amount for priority group 1 applications. The change to require the full amount is necessary to help ensure that the State will actually have all of the funds available as needed for the project without having to take further action which could delay the construction of the State home.

As noted above, the Veterans Millennium Health Care and Benefits Act requires VA to prescribe for each State the number of nursing home and domiciliary beds for which grants may be furnished. This is required to be based on the projected demand for nursing home and domiciliary care on November 30, 2009 (10 years after the date of enactment of the Act), by veterans who at such time are 65 years of age or older and who reside in that State. As described below, we established the maximum number for each State in accordance with that criteria.

To determine the maximum number of nursing home beds for each State, we started with the national nursing home utilization by males 65 and older which came from the Medical Expenditure Panel Survey (MEPS) conducted by the Department of Health and Human Services in 1996. The MEPS includes nursing home utilization by age group and by level of dependency in activities of daily living (ADL). Based on the assumptions that the national nursing home use rate for males would be approximately the same for veterans and non-veterans, and that the projected number of female veterans over 65 would be very small, we applied the national rate to the projected male and female veteran population 65 years and older in 2009 in each State. We multiplied the resulting number for each State by 11.5 percent. This percentage represents the projected national State nursing home reliance factor projected for VA for 2009. We also project that the VA national reliance factor for VA nursing homes and community nursing homes will be 11.5 percent for 2009. These percentages are based upon recent historical and projected data in VA's market share in providing nursing home care for veterans.

To determine the maximum number of domiciliary beds for each State projected to 2009, we applied the current age-specific utilization rates in existing State home domiciliaries to the projected veteran population 65 years and older in 2009 by State.

The maximum number of State home beds by State was then derived by adding the projected number of State nursing home beds for 2009 to the projected number of State domiciliary beds for 2009.

The ''natural break points'' (large gaps between groups of numbers representing maximum beds needed for States) in the list of maximum State home beds by State are utilized to define great, significant and limited need for beds. A State with great need is a State with no State home beds or with a need for 2000 or more beds; a State with significant need is a State with a need for 1000–1999 beds; and a State with limited need is a State with a need for less than 1000 beds.

For purposes of great, significant, and limited need for beds, the maximum number of State home nursing home and domiciliary beds for each State is the number in the chart in § 59.40 for the State, minus the sum of the number of nursing home and domiciliary beds already in operation at State home facilities, and the number of State home nursing home and domiciliary beds not yet in operation but for which a grant has either been requested or awarded. The numbers for making these calculations will be made available to the public on a VA website at *http://www.va.gov/About_VA/Orgs/VHA/VHAProg.htm.*

As noted above, the Veterans Millennium Health Care and Benefits Act requires that in considering the number of nursing home and domiciliary beds for which grants may be furnished, VA must take into account travel distances for veterans and their families. In this regard, the rule states that a State may request a grant for a project that would increase the total number of State home nursing home and domiciliary beds beyond the maximum number for that State if the State submits to the Chief Consultant, Geriatrics and Extended Care, documentation to establish a need for an exception based on travel distances of at least two hours (by land transportation or any other usual mode of transportation if land transportation is not available) between a veteran population center sufficient for the establishment of a State home and any existing State home. We believe this is a reasonable method for meeting the statutory requirement.

The rule contains construction requirements for facilities that would furnish nursing home care, domiciliary care, and adult day health care (§§ 59.121 through 59.170). The construction requirements for nursing homes are consistent with the construction requirements that were recently established for per diem for nursing home care of veterans in State homes (38 CFR part 51). The proposed construction requirements for domiciliaries are the same as those for nursing homes because the construction needs are the same. The construction requirements for adult day health care are consistent with the proposed construction requirements for per diem for adult day health care of veterans in State homes (65 FR 39835).

The rule incorporates by reference the 2000 edition of the National Fire Protection Association Life Safety Code entitled ''NFPA 101, Life Safety Code'' and the 1999 edition of the NFPA 99, Standard for Health Care Facilities (1999 edition). The regulations are designed to ensure that State homes meet these national standards for fire and safety.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, we have found for this rule that notice and public procedure are impracticable, unnecessary, and contrary to the public interest and that we have good cause to dispense with notice and comment on this rule and to dispense with a 30-day delay of its effective date. The Veterans' Millennium Health Care and Benefits Act provides that the Secretary shall prescribe provisions in this rule to be used for awarding grants for fiscal year 2002. Without this rule becoming effective immediately, States would not have sufficient time to meet the requirements for inclusion on the priority list for obtaining a grant for fiscal year 2002.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. All of

the entities that would be subject to this proposed rule are State government entities under the control of State governments. Of the 100 State homes, all are operated by State governments except for 17 that are operated by entities under contract with State governments. These contractors are not small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirement of sections 603 and 604.

Executive Order 12866

The Office of Management and Budget has reviewed this interim final rule under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This rule is exempt from the collections of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520). The rule only applies to States. Further, in 2000, VA received applications for grants from only six States and we expect that each year fewer than 10 States will submit applications. If VA expects to receive 10 or more applications in any year, we will seek approval under the Paperwork Reduction Act for this collection of information.

List of Subjects

38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Government programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

38 CFR Part 59

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Government programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Incorporation by reference, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: June 7, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR Chapter I is amended as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. Immediately after § 17.200, remove the undesignated center heading, the note, and §§ 17.210 through 17.222.

3. A new part 59 is added to read as follows:

PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES

Sec.

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59.2 Definitions.
59.3 Federal Application Identifier.
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Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.1 Purpose.

This part sets forth the mechanism for a State to obtain a grant:

(a) To construct State home facilities (or to acquire facilities to be used as State home facilities) for furnishing domiciliary or nursing home care to veterans, and

(b) To expand, remodel, or alter existing buildings for furnishing domiciliary, nursing home, adult day health, or hospital care to veterans in State homes.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.2 Definitions.

For the purpose of this part:

Acquisition means the purchase of a facility in which to establish a State home for the provision of domiciliary and/or nursing home care to veterans.

Adult day health care is a therapeutically-oriented outpatient day program, which provides health maintenance and rehabilitative services to participants. The program must provide individualized care delivered by an interdisciplinary health care team and support staff, with an emphasis on helping participants and their caregivers to develop the knowledge and skills necessary to manage care requirements in the home. Adult day health care is principally targeted for complex medical and/or functional needs of elderly veterans.

Construction means the construction of new domiciliary or nursing home buildings, the expansion, remodeling, or alteration of existing buildings for the provision of domiciliary, nursing home, or adult day health care, or hospital care in State homes, and the provision of initial equipment for any such buildings.

Domiciliary care means providing shelter, food, and necessary medical care on an ambulatory self-care basis (this is more than room and board). It assists eligible veterans who are suffering from a disability, disease, or defect of such a degree that incapacitates veterans from earning a living, but who are not in need of hospitalization or nursing care services. It assists in attaining physical, mental, and social well-being through special rehabilitative programs to restore residents to their highest level of functioning.

Nursing home care means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing care and related medical services.

Secretary means the Secretary of the United States Department of Veterans Affairs.

State means each of the several States, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico.

State representative means the official designated in accordance with State authority with responsibility for matters relating to the request for a grant under this part.

VA means the United States Department of Veterans Affairs.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.3 Federal Application Identifier.

Once VA has provided the State representative with a Federal Application Identifier Number for a project, the number must be included on all subsequent written communications to VA from the State, or its agent, regarding a request for a grant for that project under this part.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.4 Decisionmakers, notifications, and additional information.

The decisionmaker for decisions required under this part will be the Chief Consultant, Geriatrics and Extended Care, unless specified to be the Secretary or other VA official. The VA decisionmaker will provide written notice to affected States of approvals, denials, or requests for additional information under this part.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.5 Submissions of information and documents to VA.

All submissions of information and documents required to be presented to VA must be made, unless otherwise specified under this part, to the Chief Consultant, Geriatrics and Extended Care (114), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.10 General requirements for a grant.

For a State to obtain a grant under this part and grant funds, its initial application for the grant must be approved under § 59.20, and the project must be ranked sufficiently high on the priority list for the current fiscal year so that funding is available for the project. It must meet the additional application requirements in § 59.60, and it must meet all other requirements under this part for obtaining a grant and grant funds.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.20 Initial application requirements.

(a) For a project to be considered for inclusion on the priority list in § 59.50 of this part for the next fiscal year, a State must submit to VA an original and one copy of a completed VA Form 10–0388 and all information, documentation, and other forms specified by VA form 10–0388 (these forms are set forth at § 59.170 of this part).

(b) The Secretary, based on the information submitted for a project pursuant to paragraph (a) of this section, will approve the project for inclusion on the priority list in § 59.50 of this part if the submission includes all of the information requested under paragraph (a) of this section and if the submission represents a project that, if further developed, could meet the requirements for a grant under this part.

(c) The information requested under paragraph (a) of this section should be submitted to VA by April 15, and must be received by VA by August 15, if the State wishes an application to be included on the priority list for the award of grants during the next fiscal year.

(d) If a State representative believes that VA may not award a grant to the State for a grant application during the current fiscal year and wants to ensure that VA includes the application on the priority list for the next fiscal year, the State representative must, prior to August 15 of the current fiscal year,

(1) Request VA to include the application in those recommended to the Secretary for inclusion on the priority list, and

(2) Send any updates to VA.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.30 Documentation.

For a State to obtain a grant and grant funds under this part, the State must submit to VA documentation that the site of the project is in reasonable proximity to a sufficient concentration and population of veterans that are 65 years of age and older and that there is a reasonable basis to conclude that the facility when complete will be fully occupied. This documentation must be included in the initial application submitted to VA under § 59.20.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.40 Maximum number of nursing home care and domiciliary care beds for veterans by State.

(a) Except as provided in paragraph (b) of this section, a State may not request a grant for a project to construct or acquire a new State home facility, to increase the number of beds available at a State home facility, or to replace beds at a State home facility if the project would increase the total number of State home nursing home and domiciliary beds beyond the maximum number designated for that State. The maximum number of State home nursing home and domiciliary beds designated for each State is (for maximum numbers see VA website at *http://www.va.gov/About_VA/Orgs/VHA/VHAProg.htm*). the number in the following chart for the State, minus the sum of the number of nursing home and domiciliary beds already in operation at State home facilities, and the number of State home nursing home and domiciliary beds not yet in operation but for which a grant has either been requested or awarded under this part (the availability of VA and community nursing home beds in each State will also be considered at the time of grant application for bed-producing projects):

State	State home nursing home and domiciliary beds
Alabama	883
Alaska	79
Arizona	1,068
Arkansas	557
California	5,754
Colorado	717
Connecticut	738
Delaware	165
District of Columbia	104
Florida	4,471
Georgia	1,202
Hawaii	216
Idaho	233
Illinois	2,271
Indiana	1,209
Iowa	632
Kansas	542
Kentucky	759
Louisiana	785
Maine	301
Maryland	1,020
Massachusetts	1,348
Michigan	1,896
Minnesota	932
Mississippi	500
Missouri	1,230
Montana	198
Nebraska	355
Nevada	428
New Hampshire	264
New Jersey	1,683
New Mexico	344
New York	3,220
North Carolina	1,454
North Dakota	121
Ohio	2,530
Oklahoma	747
Oregon	804
Pennsylvania	3,173
Puerto Rico	350
Rhode Island	254

State	State home nursing home and domiciliary beds
South Carolina	750
South Dakota	155
Tennessee	1,050
Texas	3,226
Utah	304
Vermont	124
Virginia	1,312
Virgin Islands	8
Washington	1,215
West Virginia	455
Wisconsin	1,070
Wyoming	93

Note to paragraph (a): The provisions of 38 U.S.C. 8134 require VA to prescribe for each State the number of nursing home and domiciliary beds for which grants may be furnished. This is required to be based on the projected demand for nursing home and domiciliary care on November 30, 2009 (10 years after the date of enactment of the Veterans Millennium Health Care and Benefits Act (P.L. 106–117)), by veterans who at such time are 65 years of age or older and who reside in that State. In determining the projected demand, VA must take into account travel distances for veterans and their families.

(b) A State may request a grant for a project that would increase the total number of State nursing home and domiciliary beds beyond the maximum number for that State, if the State submits to VA, documentation to establish a need for the exception based on travel distances of at least two hours (by land transportation or any other usual mode of transportation if land transportation is not available) between a veteran population center sufficient for the establishment of a State home and any existing State home. The determination regarding a request for an exception will be made by the Secretary.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.50 Priority list.

(a) The Secretary will make a list prioritizing the applications that were received on or before August 15 and that were approved under § 59.20 of this part. Except as provided in paragraphs (b) and (c) of this section, applications will be prioritized from the highest to the lowest in the following order:

(1) *Priority group 1.* An application from a State that has made sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State (such as subsequent issuance of bonds) to make such funds available for the project. To meet this criteria, the State must provide to VA a letter from an authorized State budget official certifying that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action to make such funds available (such as further action to issue bonds). If the certification is based on an Act authorizing the project and making available the State's matching funds for the project, a copy of the Act must be submitted with the certification.

(i) *Priority group 1—subpriority 1.* An application for a project to remedy a condition, or conditions, at an existing facility that have been cited as threatening to the lives or safety of the residents in the facility by a VA Life Safety Engineer, a State or local government agency (including a Fire Marshal), or an accrediting institution (including the Joint Commission on Accreditation of Healthcare Organizations). This priority group does not include applications for the addition or replacement of building utility systems, such as heating and air conditioning systems or building features, such as roof replacements. Projects in this subpriority will be further prioritized in the following order: seismic; building construction; egress; building compartmentalization (e.g., smoke barrier, fire walls); fire alarm/detection; asbestos/hazardous materials; and all other projects. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(ii) *Priority group 1—subpriority 2.* An application from a State that has not previously applied for a grant under 38 U.S.C. 8131–8137 for construction or acquisition of a State nursing home. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(iii) *Priority group 1—subpriority 3.* An application for construction or acquisition of a nursing home or domiciliary from a State that has a great need for the beds that the State, in that application, proposes to establish. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(iv) *Priority group 1—subpriority 4.* An application from a State for renovations to a State Home facility other than renovations that would be included in subpriority 1 of Priority group 1. Projects will be further prioritized in the following order: adult day health care construction; nursing home construction (e.g., patient privacy); code compliance under the Americans with Disabilities Act; building systems and utilities (e.g., electrical; heating, ventilation, and air conditioning (HVAC); boiler; medical gasses; roof; elevators); clinical-support facilities (e.g., for dietetics, laundry, rehabilitation therapy); and general renovation/upgrade (e.g., warehouse, storage, administration/office, multipurpose). Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(v) *Priority group 1—subpriority 5.* An application for construction or acquisition of a nursing home or domiciliary from a State that has a significant need for the beds that the State in that application proposes to establish. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(vi) *Priority group 1—subpriority 6.* An application for construction or acquisition of a nursing home or domiciliary from a State that has a limited need for the beds that the State, in that application, proposes to establish. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

Note to paragraph (a)(1): The following chart is intended to provide a graphic aid for understanding Priority group 1 and its subpriorities.

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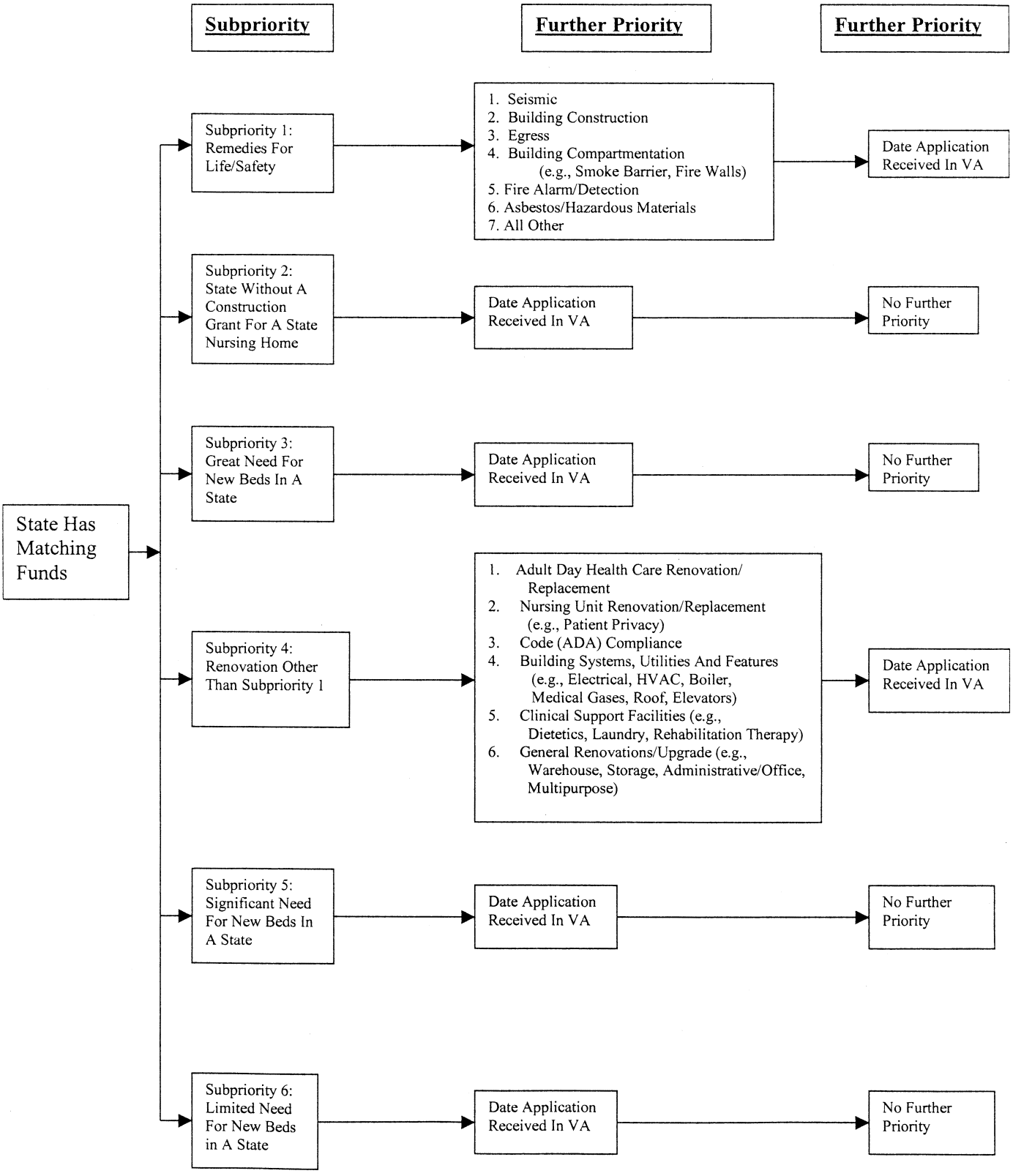
Example – Prioritization for Priority Group 1



BILLING CODE 8320–01–C

(2) *Priority group 2.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(i) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(i) of this section.

(3) *Priority group 3.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(ii) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(ii) of this section.

(4) *Priority group 4.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(iii) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(iii) of this section.

(5) *Priority group 5.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(iv) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(iv) of this section.

(6) *Priority group 6.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(v) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(v) of this section.

(7) *Priority group 7.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(vi) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(vi) of this section.

(b) An application will be given highest priority on the priority list for the next fiscal year within the priority group to which it is assigned in paragraph (a) of this section (without consideration of subpriorities) if:

(1) During the current fiscal year the State accepted a grant for that application that was less than the amount that would have been awarded if VA had sufficient appropriations to award the full amount of the grant requested; and

(2) The application was the lowest-ranking application on the priority list for the current fiscal year for which grant funds were available.

(c) An application will be given priority on the priority list (after applications described in paragraph (b) of this section) for the next fiscal year ahead of all applications that had not been approved under § 59.20 on the date that the application was approved under § 59.20, if:

(1) During the current fiscal year VA would have awarded a grant based on the application except for the fact that VA determined that the State did not, by July 1, provide evidence that it had its matching funds for the project, and

(2) The State was notified prior to July 1 that VA had funding available for this grant application.

(d) The priority list will not contain any project for the construction or acquisition of a hospital or hospital beds.

(e) For purposes of establishing priorities under this section:

(1) A State has a great need for nursing home and domiciliary beds if the State:

(i) Has no State homes with nursing home or domiciliary beds, or

(ii) Has an unmet need of 2,000 or more nursing home and domiciliary beds;

(2) A State has a significant need for nursing home and domiciliary beds if the State has an unmet need of 1,000 to 1,999 nursing home and domiciliary beds; and

(3) A State has a limited need for nursing home and domiciliary beds if the State has an unmet need of 999 or fewer nursing home and domiciliary beds.

(f) Projects that could be placed in more than one subpriority will be placed in the subpriority toward which the preponderance of the cost of the project is allocated. For example, under priority group 1—subpriority 1, if a project for which 25 percent of the funds needed would concern seismic and 75 percent of the funds needed would concern building construction, the project would be placed in the subpriority for building construction.

(g) Once the Secretary prioritizes the applications in the priority list, VA will not change the priorities unless a change is necessary as a result of an appeal.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.60 Additional application requirements.

For a project to be eligible for a grant under this part for the fiscal year for which the priority list was made, during that fiscal year the State must submit to VA an original and a copy of the following:

(a) Complete, updated Standard Forms 424 (mark the box labeled application and submit the information requested for an application), 424C, and 424D (the forms are set forth at § 59.170 of this part), and

(b) A completed VA Form 10–0388 and all information and documentation specified by VA Form 10–0388 (the form is set forth at § 59.170h).

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.70 Award of grants.

(a) The Secretary, during the fiscal year for which a priority list is made under this part, will:

(1) Award a grant for each application that has been approved under § 59.20, that is sufficiently high on the priority list so that funding is available for the application, that meets the additional application requirements in § 59.60, and that meets all other requirements under this part for obtaining a grant, or

(2) Conditionally approve a grant for a project for which a State has submitted an application that substantially meets the requirements of this part if the State representative requests conditional approval and provides written assurance that the State will meet all requirements for a grant not later than 180 calendar days after the date of conditional approval. If a State that has obtained conditional approval for a project does not meet all of the requirements within 180 calendar days after the date of conditional approval, the Secretary will rescind the conditional approval and the project will be ineligible for a grant in the fiscal year in which the State failed to fully complete the application. The funds that were conditionally obligated for the project will be deobligated.

(b) As a condition of receiving a grant, a State must make sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State (such as subsequent issuance of bonds) to make such funds available for such purpose. To meet this criteria, the State must provide to VA a letter from an authorized State budget official certifying that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action to make such funds available (such as further action to issue bonds). If the certification is based on an Act authorizing the project and making available the State's matching funds for the project, a copy of the Act must be submitted with the certification. To be eligible for inclusion in priority group 1 under this part, a State must make such funds available by August 15 of the year

prior to the fiscal year for which the grant is requested. To otherwise be eligible for a grant and grant funds based on inclusion on the priority list in other than priority group 1, a State must make such funds available by July 1 of the fiscal year for which the grant is requested.

(c) As a condition of receiving a grant, the State representative and the Secretary will sign three originals of the Memorandum of Agreement documents (one for the State and two for VA). A sample is in § 59.170.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.80 Amount of grant.

(a) The total cost of a project (VA and State) for which a grant is awarded under this part may not be less than $400,000 and, except as provided in paragraph (i) of this section, the total cost of a project will not exceed the total cost of new construction. The amount of a grant awarded under this part will be the amount requested by the State and approved in accordance with this part, not to exceed 65 percent of the total cost of the project except that:

(1) The total cost of a project will not include the cost of space that exceeds the maximum allowable space specified in this part, and

(2) The amount of the grant may be less than 65 percent of the total cost of the project if the State accepts less because VA did not have sufficient funds to award the full amount of the grant requested.

(b) The total cost of a project under this part for acquisition of a facility may also include construction costs.

(c) The total cost of a project under this part will not include any costs incurred before the date VA sent the State written notification that the application in § 59.20 was approved.

(d) The total cost of a project under this part may include administration and production costs, e.g., architectural and engineering fees, inspection fees, and printing and advertising costs.

(e) The total cost of a project under this part may include the cost of projects on the grounds of the facility, e.g., parking lots, landscaping, sidewalks, streets, and storm sewers, only if they are inextricably involved with the construction of the project.

(f) The total cost of a project under this part may include the cost of equipment necessary for the operation of the State home facility. This may include the cost of:

(1) Fixed equipment included in the construction or acquisition contract. Fixed equipment must be permanently affixed to the building or connected to the heating, ventilating, air conditioning, or other service distributed through the building via ducts, pipes, wires, or other connecting device. Fixed equipment must be installed during construction. Examples of fixed equipment include kitchen and intercommunication equipment, built-in cabinets, and cubicle curtain rods; and

(2) Other equipment not included in the construction contract constituting no more than 10 percent of the total construction contract cost of the project. Other equipment includes: furniture, furnishings, wheeled equipment, kitchen utensils, linens, draperies, blinds, electric clocks, pictures and trash cans.

(g) The contingency allowance may not exceed five percent of the total cost of the project for new construction or eight percent for renovation projects.

(h) The total cost of a project under this part may not include the cost of:

(1) Land acquisition;

(2) Maintenance or repair work; or

(3) Office supplies or consumable goods (such as food, drugs, medical dressings, paper, printed forms, and soap) which are routinely used in a State home.

(i) A grant for expansion, remodeling, or alteration of an existing State home, which is on or eligible for inclusion in the National Register of Historic Places, for furnishing domiciliary, nursing home, or adult day health care to veterans may not be awarded for the expansion, remodeling, or alteration of such building if such action does not comply with National Historic Preservation Act procedures or if the total cost of remodeling, renovating, or adapting such building or facility exceeds the cost of comparable new construction by more than five percent. If demolition of an existing building or facility on, or eligible for inclusion in, the National Register of Historic Places is deemed necessary and such demolition action is taken in compliance with National Historic Preservation Act procedures, any mitigation cost negotiated in the compliance process and/or the cost to professionally record the building or facility in the Historic American Buildings Survey (HABS), plus the total cost for demolition and site restoration, shall be included by the State in calculating the total cost of new construction.

(j) The cost of demolition of a building cannot be included in the total cost of construction unless the proposed construction is in the same location as the building to be demolished or unless the demolition is inextricably linked to the design of the construction project.

(k) With respect to the final award of a conditionally-approved grant, the Secretary may not award a grant for an amount that is 10 percent more than the amount conditionally-approved.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.90 Line item adjustments to grants.

After a grant has been awarded, upon request from the State representative, VA may approve a change in a line item (line items are identified in Form 424C which is set forth in § 59.170(o) of this part) of up to 10 percent (increase or decrease) of the cost of the line item if the change would be within the scope or objective of the project and would not change the amount of the grant.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.100 Payment of grant award.

The amount of the grant award will be paid to the State or, if designated by the State representative, the State home for which such project is being carried out, or any other State agency or instrumentality. Such amount shall be paid by way of reimbursement, and in such installments consistent with the progress of the project, as the Chief Consultant, Geriatrics and Extended Care, may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved project shall be used solely for carrying out such project as so approved. As a condition for the final payment, the State must comply with the requirements of this part based on an architectural and engineering inspection approved by VA, must obtain VA approval of the final equipment list submitted by the State representative, and must submit to VA a completed VA Form 10–0388 (see § 59.170(i)). The equipment list and the completed VA form 10–0388 must be submitted to the Chief Consultant, Geriatrics and Extended Care (114), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.110 Recapture provisions.

If a facility for which a grant has been awarded ceases to be operated as a State home for the purpose for which the grant was made, the United States shall be entitled to recover from the State which was the recipient of the grant or from the then owner of such construction as follows:

(a) If less than 20 years has lapsed since the grant was awarded, and VA provided 65 percent of the estimated cost to construct, acquire or renovate a

State home facility principally for furnishing domiciliary care, nursing home care, adult day health care, hospital care, or non-institutional care to veterans, VA shall be entitled to recover 65 percent of the current value of such facility (but in no event an amount greater than the amount of assistance provided for such under these regulations), as determined by agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated.

(b) Based on the time periods for grant amounts set forth below, if VA provided between 50 and 65 percent of the estimated cost of expansion, remodeling, or alteration of an existing State home facility, VA shall be entitled to recover the amount of the grant as determined by agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated:

Grant amount (dollars in thousands)	Recovery period (in years)
0–250	7
251–500	8
501–750	9
751–1,000	10
1,001–1,250	11
1,251–1,500	12
1,501–1,750	13
1,751–2,000	14
2,001–2,250	15
2,251–2,500	16
2,501–2,750	17
2,751–3,000	18
Over 3,000	20

(c) If the magnitude of the VA contribution is below 50 percent of the estimated cost of the expansion, remodeling, or alteration of an existing State home facility recognized by the Department of Veterans Affairs, the Under Secretary for Health may authorize a recovery period between 7 and 20 years depending on the grant amount involved and the magnitude of the project.

(d) This section does not apply to any portion of a State home in which VA has established and operates an outpatient clinic.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.120 Hearings.

If the Secretary determines that a submission from a State does not meet the requirements of this part, the Secretary will advise the State by letter that a grant is tentatively denied, explain the reasons for the tentative denial, and inform the State of the opportunity to appeal to the Board of Veterans' Appeals pursuant to 38 U.S.C. 7105. Decisions under this part are not subject to the provisions of § 17.133 of this order.

(Authority: 38 U.S.C. 101, 501, 511, 1710, 1742, 7101–7298, 8105, 8131–8137).

§ 59.121 Amendments to application.

Any amendment of an application that changes the scope of the application or changes the cost estimates by 10 percent or more shall be subject to approval in the same manner as an original application.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.122 Withdrawal of application.

A State representative may withdraw an application by submitting to VA a written document requesting withdrawal.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.123 Conference.

At any time, VA may recommend that a conference (such as a design development conference) be held in VA Central Office in Washington, DC, to provide an opportunity for the State and its architects to discuss requirements for a grant with VA officials.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.124 Inspections, audits, and reports.

(a) A State will allow VA inspectors and auditors to conduct inspections and audits as necessary to ensure compliance with the provisions of this part. The State will provide evidence that it has met its responsibility under the Single Audit Act of 1984 (see part 41 of this chapter) and submit that evidence to VA.

(b) A State will make such reports in such form and containing such information as the Chief Consultant, Geriatrics and Extended Care, may from time to time reasonably require and give the Chief Consultant, Geriatrics and Extended Care, upon demand, access to the records upon which such information is based.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.130 General requirements for all State home facilities.

As a condition for receiving a grant and grant funds under this part, States must comply with the requirements of this section.

(a) The physical environment of a State home must be designed, constructed, equipped, and maintained to protect the health and safety of participants, personnel and the public.

(b) A State home must meet the general conditions of the American Institute of Architects, or other general conditions required by the State, for awarding contracts for State home grant projects. Facilities must meet all Federal, State, and local requirements, including the Uniform Federal Accessibility Standards (UFAS) (24 CFR part 40, appendix A), during the design and construction of projects subject to this part. If the State or local requirements are different from the Federal requirements, compliance with the most stringent provisions is required. A State must design and construct the project to provide sufficient space and equipment in dining, health services, recreation, and program areas to enable staff to provide residents with needed services as required by this part and as identified in each resident's plan of care.

(c) State homes should be planned to approximate the home atmosphere as closely as possible. The interior and exterior should provide an attractive and home-like environment for elderly residents. The site will be located in a safe, secure, residential-type area that is accessible to acute medical care facilities, community activities and amenities, and transportation facilities typical of the area.

(d)(1) State homes must meet the applicable provisions of the National Fire Protection Association's NFPA 101, Life Safety Code (2000 edition) and the NFPA 99, Standard for Health Care Facilities (1999 edition). Incorporation by reference of these materials was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials, incorporated by reference, are available for inspection at the Office of the Federal Register, Suite 700, 800 North Capitol Street, NW, Washington, DC, and the Department of Veterans Affairs, Office of Regulations Management (02D), Room 1154, 810 Vermont Avenue, NW, Washington, DC 20420. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269–9101. (For ordering information, call toll free 1–800–344–3555.)

(2) Facilities must also meet the State and local fire codes.

(e) State homes must have an emergency electrical power system to supply power adequate to operate all exit signs and lighting for means of egress, fire and medical gas alarms, and emergency communication systems. The source of power must be an on-site emergency standby generator of

sufficient size to serve the connected load or other approved sources.

(f) The nurse's station must be equipped to receive resident calls through a communication system from resident rooms, toilet and bathing facilities, dining areas, and activity areas.

(g) The State home must have one or more rooms designated for resident dining and activities. These rooms must be:

(1) Well lighted;

(2) Well ventilated; and

(3) Adequately furnished.

(h) The facility management must provide a safe, functional, sanitary, and comfortable environment for the residents, staff and the public. The facility must:

(1) Ensure that water is available to essential areas when there is a loss of normal water supply;

(2) Have adequate outside ventilation by means of windows, or mechanical ventilation, or a combination of the two;

(3) Equip corridors with firmly secured handrails on each side; and

(4) Maintain an effective pest control program so that the facility is free of pests and rodents.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.140 Nursing home care requirements.

As a condition for receiving a grant and grant funds for a nursing home facility under this part, States must comply with the requirements of this section.

(a) Resident rooms must be designed and equipped for adequate nursing care, comfort, and privacy of residents. Resident rooms must:

(1) Accommodate no more than four residents;

(2) Have direct access to an exit corridor;

(3) Have at least one window to the outside;

(4) Be equipped with, or located near, toilet and bathing facilities (VA recommends that public toilet facilities also be located near the residents dining and recreational areas);

(5) Be at or above grade level;

(6) Be designed or equipped to ensure full visual privacy for each resident;

(7) Except in private rooms, each bed must have ceiling suspended curtains that extend around the bed to provide total visual privacy in combination with adjacent walls and curtains;

(8) Have a separate bed for each resident of proper size and height for the safety of the resident;

(9) Have a clean, comfortable mattress;

(10) Have bedding appropriate to the weather and climate;

(11) Have functional furniture appropriate to the resident's needs, and

(12) Have individual closet space with clothes racks and shelves accessible to the resident.

(b) Unless determined by VA as necessary to accommodate an increased quality of care for patients, a nursing home project may propose a deviation of no more than 10 percent (more or less) from the following net square footage for the State to be eligible for a grant of 65 percent of the total estimated cost of the project. If the project proposes building more than the following net square footage and VA makes a determination that it is not needed, the cost of the additional net square footage will not be included in the estimated total cost of construction.

TABLE TO PARAGRAPH (B)—NURSING HOME

I. Support facilities [allowable square feet (or metric equivalent) per facility for VA participation]:	
Administrator	200
Assistant administrator	150
Medical officer, director of nursing or equivalent	150
Nurse and dictation area	120
General administration (each office/person)	120
Clerical staff (each)	80
Computer area	40
Conference room (consultation area, in-service training)	500 (for each room)
Lobby/waiting area. (150 minimum/600 maximum per facility)	3 (per bed)
Public/resident toilets (male/female)	25 (per fixture)
Pharmacy [1].	
Dietetic service [1].	
Dining area	20 (per bed)
Canteen/retail sales	2 (per bed)
Vending machines (450 max. per facility)	1 (per bed)
Resident toilets (male/female)	25 (per fixture)
Child day care [1].	
Medical support (staff offices/exam/treatment room/family counseling, etc.)	140 (for each room)
Barber and/or beauty shops	140
Mail room	120
Janitor's closet	40
Multipurpose room	15 (per bed)
Employee lockers	6 (per employee)
Employee lounge (500 max. per facility)	120
Employee toilets	25 (per fixture)
Chapel	450
Physical therapy	5 (per bed)
Office, if required	120
Occupational therapy	5 (per bed).
Office, if required	120
Library	1.5 (per bed)
Building maintenance storage	2.5 (per bed)
Resident storage	6 (per bed)
General warehouse storage	6 (per bed)
Medical/dietary/pharmacy	7 (per bed)
General laundry [1].	
II. Bed units:	
One	150

TABLE TO PARAGRAPH (B)—NURSING HOME—Continued

Two	245
Large two-bed per unit	305
Four	460
Lounge areas (resident lounge with storage)	8 (per bed)
Resident quiet room	3 (per bed)
Clean utility	120
Soiled utility	105
Linen storage	150
General storage	100
Nurses station, ward secretary	260
Medication room	75
Exam/Treatment room	140
Waiting area	50
Unit supply and equipment	50
Staff toilet	25 (per fixture)
Stretcher/wheelchair storage	100
Kitchenette	150
Janitor's closet	40
Resident laundry	125
Trash collection	60
III. Bathing and Toilet Facilities:	
(A) Private or shared facilities:	
Wheelchair facilities	25 (per fixture)
Standard facilities	15 (per fixture)
(B) Full bathroom	75
(C) Congregate bathing facilities:	
First tub/shower	80
Each additional fixture	25

[1] The size to be determined by the Chief Consultant, Geriatrics and Extended Care, as necessary to accommodate projected patient care needs (must be justified by State in space program analysis).

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137; Sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968, as amended, Public Law 90–480, 42 U.S.C. 4151–4157).

§ 59.150 Domiciliary care requirements.

As a condition for receiving a grant and grant funds for a domiciliary under this part, the domiciliary must meet the requirements for a nursing home specified in § 59.140 of this part.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137).

§ 59.160 Adult day health care requirements.

As a condition for receiving a grant and grant funds under this part for an adult day health care facility, States must meet the requirements of this section.

(a) Each adult day health care program, when it is co-located in a nursing home, domiciliary, or other care facility, must have its own separate designated space during operational hours.

(b) The indoor space for an adult day health care program must be at least 100 square feet per participant including office space for staff, and must be 60 square feet per participant excluding office space for staff.

(c) Each program will need to design and partition its space to meet its own needs, but the following functional areas must be available:

(1) A dividable multipurpose room or area for group activities, including dining, with adequate table setting space.

(2) Rehabilitation rooms or an area for individual and group treatments for occupational therapy, physical therapy, and other treatment modalities.

(3) A kitchen area for refrigerated food storage, the preparation of meals and/or training participants in activities of daily living.

(4) An examination and/or medication room.

(5) A quiet room (with at least one bed), which functions to isolate participants who become ill or disruptive, or who require rest, privacy, or observation. It should be separate from activity areas, near a restroom, and supervised.

(6) Bathing facilities adequate to facilitate bathing of participants with functional impairments.

(7) Toilet facilities and bathrooms easily accessible to people with mobility problems, including participants in wheelchairs. There must be at least one toilet for every eight participants. The toilets must be equipped for use by persons with limited mobility, easily accessible from all programs areas, i.e. preferably within 40 feet from that area, designed to allow assistance from one or two staff, and barrier free.

(8) Adequate storage space. There should be space to store arts and crafts materials, personal clothing and belongings, wheelchairs, chairs, individual handiwork, and general supplies. Locked cabinets must be provided for files, records, supplies, and medications.

(9) An individual room for counseling and interviewing participants and family members.

(10) A reception area.

(11) An outside space that is used for outdoor activities that is safe, accessible to indoor areas, and accessible to those with a disability. This space may include recreational space and a garden area. It should be easily supervised by staff.

(d) *Furnishings* must be available for all participants. This must include functional furniture appropriate to the participants' needs.

(e) Unless determined by VA as necessary to accommodate an increased quality of care for patients, an adult day health care facility project may propose a deviation of no more than 10 percent (more or less) from the following net square footage for the State to be eligible for a grant of 65 percent of the total estimated cost of the project. If the project proposes building more than the following net square footage and VA makes a determination that it is not needed, the cost of the additional net square footage will not be included in the estimated total cost of construction.

TABLE TO PARAGRAPH (E)—ADULT DAY HEALTH CARE

I. Support facilities [allowable square feet (or metric equivalent) per facility for VA participation]:	
Program Director	200
Assistant administrator	150
Medical officer, director of nursing or equivalent	150
Nurse and dictation area	120
General administration (each office/person)	120
Clerical staff (each)	80
Computer area	40
Conference room (consultation area, in-service training)	500 (for each room).
Lobby/receiving/waiting area (150 minimum)	3 (per participant)
Public/resident toilets (male/female)	25 (per fixture).
Dining area (may be included in the multipurpose room)	20 (per participant).
Vending machines	1 (per participant).
Participant toilets (male/female)	25 (per fixture).
Medical support (staff offices/family counseling, etc.)	140 (for each room).
Janitor's closet	40
Dividable multipurpose room	15 (per participant).
Employee lockers	6 (per employee)
Employee lounge	120
Employee toilets	25 (per fixture).
Physical therapy	5 (per participant).
Office, if required	120
Occupational therapy	5 (per participant).
Office, if required	120
Building maintenance storage	2.5 (per participant).
Resident storage	6 (per participant).
General warehouse storage	6 (per participant).
Medical/dietary	7 (per participant).
General laundry[1]	
II. Other Areas:	
Participant quiet room	3 (per participant).
Clean utility	120
Soiled utility	105
General storage	100
Nurses station, ward secretary	260
Medication/exam/treatment rooms	75
Waiting area	50
Program supply and equipment	50
Staff toilet	25 (per fixture).
Wheelchair storage	100
Kitchen	120
Janitor's closet	40
Resident laundry	125
Trash collection	60
III. Bathing and Toilet Facilities:	
(A) Private or shared facilities:	
Wheelchair facilities	25 (per fixture).
Standard facilities	15 (per fixture).
(B) Full bathroom	75

[1] The size to be determined by the Chief Consultant, Geriatrics and Extended Care, as necessary to accommodate projected patient care needs (must be justified by State in space program analysis).

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137; Sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968, as amended, Public Law 90–480, 42 U.S.C. 4151–4157).

§ 59.170 Forms.

All forms set forth in this part are available on the Internet at *http://www.va.gov/About_VA/Orgs/VHA/VHAProg.htm.*

BILLING CODE 8330–01–P

(a) VA Form 10–0143—Department of Verterans Affairs Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals.

OMB Number: 2900-0160
Estimated Burden: 5 minutes

Department of Veterans Affairs

DEPARTMENT OF VETERANS AFFAIRS CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS FOR GRANTEES OTHER THAN INDIVIDUALS

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 5 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 38 CFR 44, Subpart F. The regulations, published in the January 31, 1989, Federal Register (pages 4950-4952) require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government-wide suspension or debarment (see CFR Part 44, Section 44.100 through 44.420).

The grantee certifies that it will provide a drug-free workplace by:

(1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(2) Establishing a drug-free awareness program to inform employees about

(a) The dangers of drug abuse in the workplace;
(b) The grantee's policy of maintaining a drug-free workplace;
(c) Any available drug counseling, rehabilitation, and employee assistance programs; and
(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);

(4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will

(a) Abide by the terms of the statement; and
(b) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(5) Notifying the agency within ten days after receiving notice under subparagraph (4) (b) from an employee or otherwise receiving actual notice of such convictions;

(6) Taking one of the following actions, within 30 days of receiving notice under subparagraph (4) (b), with respect to any employee who is so convicted;

(a) Taking appropriate personnel action against such employee, up to and including termination; or
(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5) and (6).

VA FORM SEP1998 (R) **10-0143** **REPRODUCE LOCALLY** JetForm

OMB Number: 2900-0168
Estimated Burden: 15 minutes

Department of Veterans Affairs

DEPARTMENT OF VETERANS AFFAIRS CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS FOR GRANTEES OTHER THAN INDIVIDUALS

Places of Performance: The grantee shall insert in the space provided below the site(s) for performance of work done in connection with the specific grant (street address, city, county, state, zip code)

ORGANIZATION NAME	GRANT NUMBER OR NAME
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

VA FORM (SEP1998 (R)) **10-0143** **REPRODUCE LOCALLY** JetForm

(b) VA Form 10–0144—Certification Regarding Lobbying.

OMB Number: 2900-0160
Estimated Burden: 5 minutes

Department of Veterans Affairs

CERTIFICATION REGARDING LOBBYING

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 5 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

This certification is made in compliance with Section 319 of Public Law 101-121; and pursuant to the Interim Final guidance published as part VII of the December 20, 1989, Federal Register (Pages 57306-52332).

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certified, to the best of their knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Forms-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

SIGNATURE OF CERTIFYING OFFICIAL	DATE
NAME AND TITLE OF CERTIFYING OFFICIAL	PROJECT (FAI NUMBER)
NAME AND ADDRESS OF STATE AGENCY	

VA FORM SEP1999 (R) **10-0144** **REPRODUCE LOCALLY**

(c) VA Form 10–0148a—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions (To be signed by Contractor(s)).

Department of Veterans Affairs

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions (To be signed by Contractor(s))

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 38 CFR Part 44.510. Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988, Federal Register (pages 191600-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name | PR/Award Number of Project Name

Name and Title of Authorized Representative

Signature | Date

Title 38 CFR 44.510(b)

VA FORM MAR 2001 **10-0148a**

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of act upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available, remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to which this proposal is submitted it any any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "participant," "person," "primary covered transaction," "principle," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(d) VA Form 10–0148b—CERTIFICATION OF STATE MATCHING FUNDS TO QUALIFY FOR GROUP 1 ON THE PRIORITY LIST.

Department of Veterans Affairs

CERTIFICATION OF STATE MATCHING FUNDS TO QUALIFY FOR GROUP 1 ON THE PRIORITY LIST

I certify that the total (35%) State matching funds in the amount of $ _____

is now available, or will be available by August 15, 20 __, for the proposed State home

project, FAI# _____. These State funds will remain available until _____

No further State action, other than administrative, is required to make these fund available.

_____	_____	_____
Type Name and Title of Authorized State Budget Official	Signature	Date

Enclosure: Copy of Act, as approved by the Governor, authorizing the project and making available the State's 35 percent matching funds for the project. (If the State has not appropriated the State matching funds, then, sufficient documentation must be provided to show that the State has available the State has matching funds for the project.)

Title 38 USC 8135 (B) (2) (A)
Title 38 CFR 59.40

VA FORM MAR 2001 **10-0148b**

(e) VA Form 10–0148c—Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions.

Department of Veterans Affairs

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 38 CFR Part 44, Section 44.510, Participants' responsibilities

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name | PR/Award Number of Project Name

Name and Title of Authorized Representative

Signature | Date

VA FROM MAR 2001 **10-0148c**

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered tranaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted it at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal" "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtain a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lwer tier covered transactions and in all solications for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

(f) VA Form 10–0148d—CERTIFICATION OF COMPLIANCE WITH FEDERAL REQUIREMENTS STATE HOME CONSTRUCTION GRANT.

Department of Veterans Affairs

CERTIFICATION OF COMPLIANCE WITH FEDERAL REQUIREMENTS STATE HOME CONSTRUCTION GRANT

I certify that to the best of my knowledge and belief all Federal requirements: (1) outlined in 38 Code of federal Regulations Part 59 as they pertain to this State home project; (2) assurances outlined in SF 424D; and (3) all mandatory comments resulting from the design development review by the U.S. Department of Veterans Affairs (VA) have been incorporated into construction contact(s) for this State Veterans home project to be located at _____

_____,

project FAI# _____

Type Name and Title of Authorized State Official	Signature	Date

Title 38 CFR Part 59

VA FORM MAR 2001 **10-0148d**

(g) VA Form 10–0388—DOCUMENTS AND INFORMATION REQUIRED FOR STATE HOME CONSTRUCTION AND ACQUISITION GRANTS.

Department of Veterans Affairs	**DOCUMENTS AND INFORMATION REQUIRED FOR STATE HOME CONSTRUCTION AND ACQUISITION GRANTS**

INITIAL APPLICATION

NOTE: An initial application should be submitted to the Chief Consultant, Geriatrics and Extended Care (114) by April 15, if the State wishes consideration of an initial application for placement on the priority list for the next fiscal year.

1. TYPE OF GRANT APPLIED FOR:

☐ ACQUISITION ☐ CONSTRUCTION

2. DOCUMENTATION THAT THE SITE OF THE PROJECT IS IN REASONABLE PROXIMITY TO A SUFFICIENT CONCENTRATION AND POPULATION OF VETERANS THAT ARE 65 YEARS OF AGE AND OLDER AND THAT THERE IS A REASONABLE BASIS TO CONCLUDE THAT THE FACILITY WHEN COMPLETE WILL BE FULLY OCCUPIED.

3. APPLICANT'S RECOMMENDATION AS TO THE PRIORITY, ANY SUBPRIORITY, AND ANY FURTHER PRIORITY FOR PURPOSES OF PLACING THE PROJECT ON THE PRIORITY LIST FOR THE NEXT FISCAL YEAR *(see 38 CFR s 59.50).*

4. STANDARD FORM (SF) 424, "APPLICATION FOR FEDERAL ASSISTANCE" *(mark the box labeled "pre-application" and submit the information requested for a "preapplication");* SF 424C, "BUDGET INFORMATION-CONSTRUCTION PROGRAMS"; SF 424D, "ASSURANCES-CONSTRUCTION PROGRAMS" AND A DESCRIPTION AND SCOPE OF THE PROJECT. *(Original and one copy required.)*

5. ON SF 424C INCLUDE:

(1) COST ESTIMATE FOR EQUIPMENT NOT INCLUDED IN THE CONSTRUCTION CONTRACT (*Not to exceed 10 percent of the construction costs)* AND

(2) CONTINGENCY COST ESTIMATE *(not to exceed 5 percent of the estimated cost of project for new construction or 8 percent for remodeling projects).*

6. PROJECT SITE DESCRIPTION, INCLUDING COUNTY LOCATION.

7. GOVERNOR'S LETTER OR A LETTER FROM THE AGENCY AUTHORIZED BY THE GOVERNOR WITH PROGRAM OVERSIGHT DESIGNATING THE STATE REPRESENTATIVE AND INFORMATION THAT WILL PERMIT VA TO CONTACT THE STATE REPRESENTATIVE. THE STATE REPRESENTATIVE MUST NOTIFY THE CHIEF CONSULTANT (114), IMMEDIATELY OF ANY CHANGES IN WHO THE STATE REPRESENTATIVE IS AND HOW TO REACH HIM OR HER.

8. NEEDS ASSESSMENT*(if adding or replacing nursing home or domiciliary beds).* INCLUDE THE FOLLOWING DOCUMENTS AND SUPPORTING JUSTIFICATIONS:

(A) DEMOGRAPHIC CHARACTERISTICS OF THE VETERAN POPULATION OF THE PROPOSED CATCHMENT AREA;

(B) AVAILABILITY OF BEDS IF GREAT TRAVEL DISTANCES *(over two hours)* ARE IMPOSED ON VETERANS AND THEIR FAMILIES;

(C) NUMBER OF VA NURSING HOME AND DOMICILIARY BEDS AND THE OCCUPANCY RATE AT THOSE FACILITIES FOR THE PREVIOUS FISCAL YEAR

(D) NUMBER OF STATE NURSING HOME AND DOMICILIARY BEDS AND THE OCCUPANCY RATE OF THOSE FACILITIES FOR THE PREVIOUS FISCAL YEAR;

(E) NUMBER OF COMMUNITY-BASED NURSING HOME BEDS AND THE OCCUPANCY RATE AT THOSE FACILITIES FOR THE PREVIOUS FISCAL YEAR *(must have full State certification).* THE STATE CERTIFICATION MUST AUTHORIZE APPROPRIATE LEVEL(S) OF CARE TO ALLOW VETERAN PLACEMENT IN THOSE FACILITIES.

(F) WAITING LISTS FOR EXISTING STATE HOME PROGRAMS;

(G) PLANS FOR ACUTE MEDICAL CARE/EMERGENCY CARE SERVICES AS MAY BE REQUIRED BY THE STATE HOME RESIDENTS AND

(H) AVAILABILITY OF QUALIFIED MEDICAL CARE PERSONNEL TO STAFF THE PROPOSED FACILITY.

9. NEEDS ASSESSMENT *(IF NOT ADDING OR REPLACING NURSING HOME OR DOMICILIARY BEDS)* (A) REASON FOR THE PROJECT AND (B) THE SCOPE OF THE PROJECT.

10. IF A STATE PROPOSES NEW BEDS THAT EXCEED THE MAXIMUM NUMBER OF STATE HOME BEDS AS DEFINED IN 38 CFR 59.40, THE STATE MUST PROVIDE DOCUMENTATION TO JUSTIFY AN EXCEPTION ON THE BASIS OF GREAT TRAVEL DISTANCES *(greater than two hours)* BETWEEN A SIGNIFICANT POPULATION CENTER AND AN EXISTING STATE HOME. THE SECRETARY WILL CONSIDER AND APPROVE/DISAPPROVE SUCH JUSTIFICATION IN THE DETERMINATION OF THE PRIORITY OF THE INITIAL APPLICATION.

11. AUTHORIZED STATE REPRESENTATIVE'S CERTIFIED STATEMENT THAT THE LIST OF THE TOTAL NUMBER OF STATE-OPERATED NURSING HOME AND DOMICILIARY BEDS FOR VETERANS IS THE TOTAL NUMBER OF SUCH BEDS EXISTING, UNDER CONSTRUCTION, OR PENDING APPROVAL BY VA AT THE TIME OF THE INITIAL APPLICATION.

12. SCHEMATIC DRAWINGS FOR THE PROPOSED PROJECT.

13. SPACE PROGRAM ANALYSIS ON VA FORM 10-0392, "SPACE PROGRAM ANALYSIS-NURSING HOME" *(or VA Form 10-0392a, "Space Program Analysis-Adult Day Health Care")*FOR THE PROPOSED PROJECT THAT INCLUDES A LIST OF EACH ROOM OR AREA AND THE SQUARE FOOTAGE PROPOSED. THE PLAN SHOULD NOTE SPECIAL OR UNUSUAL SERVICES OR EQUIPMENT. THE INFORMATION ON VA FORM 10-0392, "SPACE PROGRAM ANALYSIS-NURSING HOME" *(or VA Form 10-0392a, "Space Program Analysis-Adult Day Health Care") should correspond with the charts contained in 38 CFR 59.140 AND 59.160.*

14. STATE APPLICATION IDENTIFIER NUMBER *(IF APPLICABLE).*

15. FIVE-YEAR CAPITAL PLAN FOR STATE'S ENTIRE STATE HOME PROGRAM, INCLUDING THE PROPOSED PROJECT.

16. FINANCIAL PLAN FOR STATE FACILITY'S FIRST THREE YEARS OF OPERATION FOLLOWING CONSTRUCTION.

17. ANY COMMENTS OR RECOMMENDATIONS MADE BY THE APPROPRIATE STATE CLEARING HOUSE PURSUANT TO POLICIES OUTLINED IN EXECUTIVE ORDER 12372, INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS (PART 40 OF THIS CHAPTER). IF THE STATE HAS NO CLEARING HOUSE, THE DESIGNATED AUTHORIZED STATE REPRESENTATIVE MUST CERTIFY COMPLIANCE WITH THIS EXECUTIVE ORDER.

I CERTIFY THAT THE INFORMATION SUBMITTED TO VA IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND ABILITY.

SIGNATURE OF STATE REPRESENTATIVE	DATE

THE LAW PROVIDES SEVERE PENALTIES FOR WILLFUL SUBMISSION OF FALSE INFORMATION.

VA FORM JAN 2001 **10-0388**

(h) VA Form 10–0388a—ADDITIONAL DOCUMENTS AND INFORMATION REQUIRED FOR STATE HOME CONSTRUCTION AND ACQUISITION GRANTS.

Department of Veterans Affairs

ADDITIONAL DOCUMENTS AND INFORMATION REQUIRED FOR STATE HOME CONSTRUCTION AND ACQUISITION GRANTS

APPLICATION

1. THE STATE REPRESENTATIVE MUST SUBMIT THE FOLLOWING TO VA TO RECEIVE A GRANT:

(A) STANDARD FORM (SF) 424, "APPLICATION FOR FEDERAL ASSISTANCE" *(mark the box labeled "application" and submit the information requested for a "application")*; SF 424C, "BUDGET INFORMATION-CONSTRUCTION PROGRAMS"; SF 424D, "ASSURANCES-CONSTRUCTION PROGRAMS"; AND A COMPLETE DESCRIPTION AND SCOPE OF THE PROJECT. *(Original and one copy required.)*

ON FORM 424C INCLUDE:

(1) AN ESTIMATE FOR THE COST OF THE EQUIPMENT NOT INCLUDED IN THE CONSTRUCTION CONTRACT *(NOT TO EXCEED 10 PERCENT OF THE CONSTRUCTION COSTS).*

(2) A CONTINGENCY AND ESTIMATE *(NOT TO EXCEED 5 PERCENT OF THE ESTIMATED COST OF THE PROJECT FOR NEW CONSTRUCTION OR 8 PERCENT FOR REMODELING PROJECTS).*

(B) EVIDENCE OF THE STATE AUTHORIZATION OF THE PROJECT *(e.g.COPY OF THE SIGNED LEGISLATION).*

(C) EVIDENCE *(ACT, ISSUED BONDS, ETC.)* THAT THE STATE HAS ITS SHARE OF THE ESTIMATED TOTAL COSTS OF CONSTRUCTION.

(D) VA FORM 10-0148b, "CERTIFICATION OF STATE MATCHING FUNDS."

2. AN UPDATED SPACE PROGRAM ANALYSIS FOR THE PROPOSED PROJECT THAT INCLUDES A LIST OF EACH ROOM OR AREA AND THE SQUARE FOOTAGE PROPOSED. THE PLAN SHOULD NOTE SPECIAL OR UNUSUAL SERVICES OR EQUIPMENT. THE INFORMATION ON VA FORM 10-0392, "SPACE PROGRAM ANALYSIS-NURSING HOME" *(OR VA FORM 10-0392A, "SPACE PROGRAM ANALYSIS-ADULT DAY HEALTH CARE")* SHOULD CORRESPOND WITH THE CHARTS CONTAINED IN 38 CFR 59.140 AND 59.160. THIS ANALYS IS NEEDED ONLY IF THERE IS A CHANGE IN THE SPACE PROGRAM ANALYSIS THAT WAS PREVIOUSLY SUBMITTED.

3. THE STATE REPRESENTATIVE MUST SUBMIT THE FOLLOWING CERTIFICATIONS TO VA BY MARCH 15 OF EACH YEAR UNTIL THE PROJECT IS COMPLETED.

(A) VA FORM 10-0148C, "CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS FOR PRIMARY COVERED TRANSACTIONS.

(B) VA FORM 10-0143, "DEPARTMENT OF VETERANS AFFAIRS CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS FOR GRANTEES OTHER THAN INDIVIDUALS"

(C) VA FORM 10-0144, "CERTIFICATION REGARDING LOBBYING"

4. IF THE STATE IS NOTIFIED THAT FEDERAL FUNDS ARE AVAILABLE, THE STATE MUST PROVIDE THESE ITEMS;

(A) A SCHEDULE OF WHEN EACH OF THE REMAINING REQUIREMENTS TO RECEIVE A PROPOSED GRANT WILL BE MET.

(B) PHASE 1 - ENVIRONMENTAL SURVEY. SITE PLAN/MAP, SITE SURVEY, AND SOIL INVESTIGATION *(if applicable).* DESIGN DEVELOPMENT SITE PLAN. THE APPLICANT SHALL SUBMIT A SITE SURVEY WHICH HAS BEEN PERFORMED BY A LICENSED LAND SURVEYOR. A DESCRIPTION OF THE SITE SHALL BE SUBMITTED NOTING THE GENERAL CHARACTERISTICS OF THE SITE. THIS SHOULD INCLUDE SOIL REPORTS AND SPECIFICATIONS, EASEMENTS, MAIN ROADWAY APPROACHES, SURROUNDING LAND USES, AVAILABILITY OF ELECTRICITY, WATER AND SEWER LINES, AND ORIENTATION. THE DESCRIPTION SHOULD ALSO INCLUDE A MAP LOCATING THE EXISTING AND/OR NEW BUILDINGS, MAJOR ROADS, AND PUBLIC SERVICES IN THE GEOGRAPHIC AREA. ADDITIONAL SITE PLANS SHOULD SHOW ALL SITE WORK INCLUDING PROPERTY LINES, EXISTING AND NEW TOPOGRAPHY, BUILDING LOCATIONS, UTILITY DATA, AND PROPOSED GRADES, ROADS, PARKING AREAS, WALKS, LANDSCAPING, AND SITE AMENITIES.

(C) PHASE II - ENVIRONMENTAL ASSESSMENT. *(Applies only if the outside construction exceeds 75,000 gross square feet (GSF))* THE ENVIRONMENTAL DOCUMENTATION WILL REQUIRE APPROVAL BY VA BEFORE A FINAL AWARD OF A CONSTRUCTION OR ACQUISITION GRANT FOR A STATE VETERANS HOME. (SEE 26.6 OF THIS CHAPTER FOR COMPLIANCE REQUIREMENTS.) WHEN THE APPLICATION SUBMISSION REQUIRES AN ENVIRONMENTAL ASSESSMENTS, THE STATE SHALL DESCRIBE THE POSSIBLE BENEFICIAL AND/OR HARMFUL EFFECT WHICH THE PROJECT MAY HAVE ON THE FOLLOWING IMPACT CATEGORIES:

(1) TRANSPORTATION
(2) AIR QUALITY;
(3) NOISE;
(4) SOLID WASTE;
(5) UTILITIES;
(6) GEOLOGY *(soils/hydrology/flood plains);*
(7) WATER QUALITY;
(8) LAND USE;
(9) VEGETATION, WILDLIFE, AQUATIC, AND ECOLOGY/WETLANDS;
(10) ECONOMIC ACTIVITIES;
(11) CULTURAL RESOURCES;
(12) AESTHETICS;
(13) RESIDENTIAL POPULATION;

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(14) COMMUNITY SERVICES AND FACILITIES;

(15) COMMUNITY PLANS AND PROJECTS; AND

(16) OTHER

IF AN ADVERSE ENVIRONMENTAL IMPACT IS ANTICIPATED, THE ACTION TO BE TAKEN TO MINIMIZE THE IMPACT SHOULD BE EXPLAINED IN THE ENVIRONMENTAL ASSESSMENT.

IF CONSTRUCTION OUTSIDE THE WALLS OF AN EXISTING STRUCTURE WILL INVOLVE MORE THAN 75,000 GSF, THE APPLICATION SHALL INCLUDE AN ENVIRONMENTAL ASSESSMENT TO DETERMINE IF AN ENVIRONMENTAL IMPACT STATEMENT IS NECESSARY FOR COMPLIANCE WITH SECTION 102(2)(C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969. IF THE PROPOSED ACTIONS INVOLVING CONSTRUCTION OR ACQUISITION DO NOT INDIVIDUALLY OR CUMULATIVELY HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT OR IF THE OUTSIDE CONSTRUCTION DOES NOT EXCEED 75,000 GSF, THE APPLICANT SHALL SUBMIT A LETTER NOTING A CATEGORICAL EXCLUSION, SUBJECT TO APPROVAL BY VA.

(D) LETTER FROM THE STATE HISTORICAL PRESERVATION OFFICER (SHPO) AND SUBSEQUENT CLEARANCE FROM THE VA HISTORICAL PRESERVATION OFFICER AND A COPY FROM THE SHPO STATING WHETHER THE PROJECT AREA INCLUDES ANY PROPERTIES ON, ELIGIBLE FOR, OR LIKELY TO MEET THE CRITERIA FOR THE NATIONAL REGISTER OF HISTORIC PLACES. IF THE PROPERTY DOES, OR MAY INCLUDE, NATIONAL REGISTER QUALITY PROPERTIES, THE LETTER FROM SHPO SHOULD DISCUSS THE DETERMINATION OF EFFECT OF THE PROPOSED PROJECT ON SUCH PROPERTY.

(E) DESIGN DEVELOPMENT *(35 percent)* DRAWINGS. THE APPLICANT SHALL PROVIDE TO THE DEPARTMENT OF VETERANS AFFAIRS ONE SET OF SEPIAS AND EIGHT SETS OF PRINTS, ROLLED INDIVIDUALLY PER SET, TO EXPEDITE THE REVIEW PROCESS. PLEASE SEND DIRECTLY TO THE OFFICE OF CONSTRUCTION MANAGEMENT, FACILITIES QUALITY SERVICE (181A), WITH A COPY OF THE TRANSMITTAL LETTER TO BE CHIEF, STATE HOME CONSTRUCTION PROGRAM (114). THE DRAWINGS MUST INDICATE THE DESIGNATION OF ALL SPACES, SIZE OF AREAS AND ROOMS AND INDICATE IN OUTLINE THE FIXED AND MOVABLE EQUIPMENT AND FURNITURE. THE DRAWINGS MUST BE DRAWN AT 1/4" SCALE. BEDROOM AND TOILET LAYOUTS, SHOWING CLEARANCES AND UFAS REQUIREMENTS, SHOULD BE SHOWN 1/4" SCALE. THE TOTAL FLOOR AND ROOM AREAS SHALL BE SHOWN IN THE DRAWINGS. THE DRAWINGS MUST INCLUDE:

(1) PLAN OF ANY PROPOSED DEMOLITION WORK;

(2) A PLAN FOR EACH FLOOR. FOR RENOVATIONS, THE EXISTING CONDITIONS AND EXTENT OF NEW WORK SHOULD BE CLEARLY DELINEATED;

(3) ELEVATIONS;

(4) SECTIONS AND TYPICAL DETAILS;

(5) ROOF PLAN;

(6) FIRE PROTECTION PLANS; AND

(8) TECHNICAL ENGINEERING PLANS, INCLUDING STRUCTURAL, MECHANICAL, PLUMBING, AND ELECTRICAL DRAWINGS.

IF THE PROJECT INVOLVES ACQUISITION, OR RENOVATION, THE STATE SHOULD INCLUDE THE CURRENT AS-BUILT SITE PLAN, FLOOR PLANS AND BUILDING SECTIONS THAT SHOW THE PRESENT STATUS OF THE BUILDING AND A DESCRIPTION OF THE BUILDING'S CURRENT USE AND TYPE OF CONSTRUCTION.

(F) DESIGN DEVELOPMENT OUTLINE SPECIFICATIONS. THE STATE SHALL PROVIDE EIGHT COPIES OF OUTLINE SPECIFICATIONS WHICH SHALL INCLUDE A GENERAL DESCRIPTION OF THE PROJECT, SITE, ARCHITECTURAL, STRUCTURAL, ELECTRICAL, AND MECHANICAL SYSTEMS SUCH AS ELEVATORS, NURSES' CALL SYSTEM, AIR CONDITIONING, HEATING PLUMBING, LIGHTING, POWER, AND INTERIOR FINISHES *(floor coverings, acoustical material, and wall and ceiling finishes).*

(G) DESIGN DEVELOPMENT COST ESTIMATES. TWO COPIES OF THE UPDATED SF 424 AND SF 424C COST ESTIMATES MUST BE INCLUDED IN THE APPLICATION TO VA. ESTIMATES MUST SHOW THE ESTIMATED COST OF THE BUILDINGS OR STRUCTURES TO BE ACQUIRED OR CONSTRUCTED IN THE PROJECT. COST ESTIMATES MUST LIST THE COST OF CONSTRUCTION, CONTRACT CONTINGENCY, FIXED EQUIPMENT NOT INCLUDED IN THE CONTRACT, OTHER EQUIPMENT, ARCHITECT'S FEES, AND CONSTRUCTION SUPERVISION AND INSPECTION. THE ALLOWANCE FOR EQUIPMENT, NOT INCLUDED IN THE CONSTRUCTION CONTRACT. MUST NOT EXCEED 10 PERCENT OF THE CONSTRUCTION OR ACQUISITION CONTRACT COST. THE VA ALLOWANCE FOR CONTINGENCIES SHALL NOT EXCEED 5 PERCENT OF THE TOTAL PROJECT COST FOR NEW CONSTRUCTION OR 8 PERCENT OF THE TOTAL PROJECT COST FOR RENOVATION PROJECTS. IF THE PROJECT INVOLVES NON-FEDERAL PARTICIPATING AREAS, SUCH COSTS SHOULD BE ITEMIZED SEPARATELY.

(H) REASONABLE ASSURANCE THAT THE STATE HOME, OR ANOTHER AGENCY OR INSTRUMENTALITY OF THE STATE HAS TITLE TO THE SITE FOR THE PROJECT.

5. IF ALL REQUIREMENTS FOR A GRANT ARE NOT MET PRIOR TO THE END OF A FISCAL YEAR, A STATE MAY BE ELIGIBLE FOR A CONDITIONAL APPROVAL OF A GRANT UNDER THE PROVISIONS OF 38 CFR 59.70.

6. THE STATE REPRESENTATIVE MUST SUBMIT THE FOLLOWING BY SEPTEMBER 15:

(A) FINAL DRAWINGS AND SPECIFICATIONS *(100 PERCENT) (ONE LABELED SET OF MICROFICHE APERTURE CARDS, MICROFILM, OR COMPACT DISC/READ ONLY MEMORY (CDROM) COMPACT LASER DISC, WITH 100% CONSTRUCTION DOCUMENTS (PLANS AND SPECIFICATIONS).*

(B) ADVERTISEMENT FOR THE PROPOSED PROJECT AND REQUEST FOR BIDS.

(C) TWO COPIES OF THE ITEMIZED BID TABULATIONS.

((D) COMPLETED VA FORM 10-0148D, CERTIFICATION OF COMPLIANCE WITH FEDERAL REQUIREMENTS STATE HOME CONSTRUCTION GRANT".

(E) REVISED SF 424, SF 424C BUDGET PAGES, BASED ON THE SELECTED BIDS *(including final cost for all items in the project).*

(F) THREE SIGNED ORIGINALS OF THE MEMORANDUM OF AGREEMENT THAT INCLUDES PROVISIONS IN THE SAMPLE MEMORANDUM OF AGREEMENT VA FORM 10-5348 AS SET FORTH IN 38 CFR 59.160.

7 THE STATE REPRESENTATIVE MUST SUBMIT THE FOLLOWING TO VA PRIOR TO GRANT AWARD:

(A) VA FORM 10-0148a, "CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS *(TO BE SIGNED BY THE CONTRACTOR(S)).*

I CERTIFY THAT THE INFORMATION SUBMITTED IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND ABILITY.

SIGNATURE OF STATE REPRESENTATIVE	DATE

THE LAW PROVIDES SEVERE PENALTIES FOR WILLFUL SUBMISSION OF FALSE INFORMATION.

(i) VA Form 10–0388b—DOCUMENTS/CERTIFICATIONS REQUIRED FOR STATE HOME CONSTRUCTION AND ACQUISITION GRANTS.

Department of Veterans Affairs

DOCUMENTS/CERTIFICATIONS REQUIRED FOR STATE HOME CONSTRUCTION AND ACQUISITION GRANTS

POST-GRANT REQUIREMENTS

THE STATE REPRESENTATIVE MUST SUBMIT TO VA THE FOLLOWING PRIOR TO THE FINAL PAYMENT OF GRANT FUNDS OR WHEN SPECIFIED BELOW:

(1) A SF 271, "OUTLAY REPORT AND REQUEST FOR REIMBURSEMENT FOR CONSTRUCTION PROGRAMS".

(2) A FINAL EQUIPMENT LIST *(prior to completion of construction)* A SEPARATE, COMPLETE ITEMIZED LIST TO INCLUDE FIXED AND OTHER EQUIPMENT *(not including equipment in the construction contract)* BY CATEGORY WITH THE COST, QUANTITY, AND PLACEMENT IN ACCORDANCE WITH THE FINAL DRAWINGS, BUT NOT INCLUDING CONSUMABLE GOODS OR OFFICE SUPPLIES. *(NOTE: if no equipment is involved in the project, a statement to that effect should be included in the request for the final architectural/engineering inspection.)* THIS EQUIPMENT LIST MUST BE APPROVED BY VA PRIOR TO FINAL CLAIM PAYMENT.

(3) A REQUEST IN WRITING FOR THE FINAL ARCHITECTURAL/ENGINEERING INSPECTION, INCLUDING THE NAME AND TELEPHONE NUMBER OF THE LOCAL POINT OF CONTACT FOR THE PROJECT.

(4) A FINAL CLAIM FOR PAYMENT ON SF 271, "OUTLAY REPORT AND REQUEST FOR REIMBURSEMENT FOR CONSTRUCTION PROGRAMS". ADD THE STATEMENT "IT IS HEREBY AGREED THAT THE MONETARY COMMITMENT OF THE FEDERAL GOVERNMENT WILL HAVE BEEN MET AND THE PROJECT WILL BE CONSIDERED TERMINATED UPON PAYMENT OF THIS VOUCHER."

(5) EVIDENCE THAT THE STATE HAS MET ITS RESPONSIBILITY FOR AN AUDIT UNDER THE SINGLE AUDIT ACT OF 1984 AND 59.124 OF THIS PART, IF APPLICABLE.

I CERTIFY THAT THE INFORMATION SUBMITTED IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND ABILITY.

SIGNATURE OF STATE REPRESENTATIVE	DATE

THE LAW PROVIDES SEVERE PENALTIES FOR WILLFUL SUBMISSION OF FALSE INFORMATION.

VA FORM MAR 2001 **10-0388b**

(j) VA Form 10–0392—STATE HOME CONSTRUCTION GRANT PROGRAM SPACE PROGRAM ANALYSIS—NURSING HOME AND DOMICILIARY.

Department of Veterans Affairs

STATE HOME CONSTRUCTION GRANT PROGRAM SPACE PROGRAM ANALYSIS - NURSING HOME AND DOMICILIARY

PROJECT LOCATION

PROJECT NAME:	FAI#	NUMBER OF BEDS IN PROJECT

1. SUPPORT FACILITIES	PROPOSED BY STATE	VA CRITERIA	TOTAL VA ALLOWED
ADMINISTRATOR'S OFFICE		200	
ASST. ADMINISTRATOR		150	
MEDICAL OFFICER, DIRECTOR OF NURSING OR EQUIVALENT		150	
NURSES' OFFICE AND DICTATION AREA		120	
GENERAL ADMINISTRATION *(each office/person)*		120	
		120	
		120	
		120	
		120	
		120	
		120	
		120	
		120	
MAY INCLUDE: MEDICAL RECORDS		120	
SOCIAL SERVICES		120	
RECEPTION/INFORMATION		120	
CLERICAL STAFF (Each) #		80@	
COMPUTER AREA		40	
CONFERENCE ROOM/CONSULTATION AREA/IN-SERVICE TRAINING		500	
LOBBY/WAITING AREA		3/BED (150 min. 600	
PUBLIC TOILETS (MALE, FEMALE)		25/FIXTURE	
PHARMACY	AR	AS REQUIRED	AR
DIETETIC SERVICE	AR	AS REQUIRED	AR
DINING AREA		20/BED	
CANTEEN, RETAIL SALES		2/BED	
VENDING MACHINE		1/BED (450 max./facility)	
RESIDENTS TOILETS		25/FIXTURE	
CHILD DAYCARE	AR	AS REQUIRED	AR
MEDICAL SUPPORT (Each)		140	
		140	
		140	
STAFF OFFICES (Each)		120	
EXAM/TREATMENT (Each)		120	
FAMILY COUNSELING (Each)		120	

VA FORM MAR 2001 **10-0392**

1. SUPPORT FACILITIES *(Continued)*	PROPOSED BY STATE	VA CRITERIA	TOTAL VA ALLOWED
BARBER AND/OR BEAUTY		140	
MAIL ROOM		120	
JANITORS CLOSET		40	
MULTIPURPOSE ROOM		15/BED	
EMPLOYEE LOCKERS #EMPL.		6/EMPLOYMENT	
LOUNGE		120	
TOILETS		25/FIXTURE	
CHAPEL		450	
PHYSICAL THERAPY		5/BED	
OFFICE, IF REQUIRED		120	
OCCUPATIONAL THERAPY		5/BED	
OFFICE, IF REQUIRED		120	
LIBRARY		1.5/BED	
BUILDING MAINTENANCE STORAGE		2.5/BED	
RESIDENT STORAGE		6/BED	
GENERAL WAREHOUSE STORAGE *(medical, dietary)*		6/BED	
GENERAL LAUNDRY	AR	AS REQUIRED	AR
SUPPORT FACILITIES SUB-TOTAL;(No "As Required" Areas)			
AS REQUIRED AREAS:	AR	AS REQUIRED	AR
2. BED UNITS			
ONE # ROOMS X @ =		150	
TWO # ROOMS X @ =		245	
LARGE 2 # ROOMS X @ = (2 Unit Max)		305	
THREE # ROOMS X @ =		370	
FOUR # ROOMS X @ =		460	
LOUNGE AREAS: RESIDENT LOUNGE W/STORAGE		8/BED	
RESIDENT QUIET ROOM		3/BED	
CLEAN UTILITY		120	
SOILED UTILITY		105	
LINEN STORAGE		150	
GENERAL STORAGE		100	
NURSES STATION, WARD SECRETARY		260	
MEDICATION ROOM		75	
EXAMINATION/TREATMENT ROOM		140	
WAITING AREA		50	
UNIT SUPPLY AND EQUIPMENT		50	
STAFF TOILET		25/FIXTURE	
STRETCHER/WHEELCHAIR STORAGE		100	
KITCHENETTE		120	

1. SUPPORT FACILITIES *(Continued)*	PROPOSED BY STATE	VA CRITERIA	TOTAL VA ALLOWED
JANITOR CLOSET		40	
RESIDENT LAUNDRY		125	
TRASH COLLECTION		60	
OTHER *(Justify)*			
UNIT SUB-TOTAL:			
TIMES NO. OF UNITS:	X		X
SUB TOTAL-ALL BED UNITS:			
3. BATHING AND TOILET FACILITIES			
A. PRIVATE OR SHARED FACILITIES			
WHEELCHAIR FACILITIES # ROOMS X @ =		25/FIXTURE	
(50% OF TOTAL, MINIMUM COMPLIANCE WITH UFAS)		25/FIXTURE	
STANDARD FACILITIES # ROOMS X @ =		15/FIXTURE	
		25/FIXTURE	
B. FULL BATHROOM			
# ROOMS X @ =		75	
		25/FIXTURE	
C. CONGREGATE BATHING FACILITIES			
FIRST TUB/SHOWER		80	
EACH ADDITIONAL FIXTURE#		25	
UNIT SUB-TOTAL:			
TIMES NO.OF UNITS:	X		X
SUB-TOTAL-ALL UNIT TOILETS			

NOTE 1: If Bed Units vary in bed numbers, program, or design, reproduce Bed Unit forms, as required (pages 2 & 3), and fill out for each

NOTE 2: Mechanical, electrical and other engineering/utility areas, in addition to engineering workshops and circulation space, are not included in the Space Analysis or the Percentage of Participation calculations.

NOTE 3: All areas not shown on this form must be justified, on a programmatic medical care or state imposed regulatory basis, in order for VA to participate in the funding of that space.

TOTALS	PROPOSED BY STATE	VA CRITERIA	TOTAL VA ALLOWED
COMPREHENSIVE SUB-TOTALS			
SUPPORT FACILITIES - CRITERIA			
SUPPORT FACILITIES - AS REQUIRED	AR		AR
BED UNITS			
BATHING AND TOILET FACILITIES			
GRAND TOTALS - CRITERIA AREAS:			
GRAND TOTALS - AS REQUIRED AREAS:	AR		AR

If prepared by State:
I certify that this accurately reflects the proposed Space Program Analysis for this project

_____ _____

COMPUTATIONS	PROPOSED BY STATE	TOTAL VA ALLOWED
ANALYSIS		
CRITERIA AREAS		
10% DEVIATION		+
AS REQUIRED AREAS	+ AR	+ AR
TOTAL STATE PROPOSED:	TOTAL VA ALLOWED:	

FORMULA FOR % OF VA PARTICIPATION:

VA ALLOWED: _____ **x .65**

_____ = _____ %

STATE PROPOSED: _____

OFFICIAL PERCENTAGE OF VA STATE PROPOSED PARTICIPATION = _____ %

CERTIFIED _____ DATE _____

State Home Grant Program, Office of Facilities Management (181A)
811 Vermont Avenue, NW, Washington, D.C. 20420

(k) VA Form 10–0392a—STATE HOME CONSTRUCTION GRANT PROGRAM SPACE PROGRAM ANALYSIS—ADULT DAY HEALTH CARE.

Department of Veterans Affairs	STATE HOME CONSTRUCTION GRANT PROGRAM SPACE PROGRAM ANALYSIS - ADULT DAY HEALTH CARE			
PROJECT LOCATION				
PROJECT NAME:	FAI#		NUMBER BEDS IN PROJECT	
1. SUPPORT FACILITIES	Number of Participants in Program _____	PROPOSED BY STATE	VA CRITERIA	TOTAL VA ALLOWED
ADMINISTRATOR'S OFFICE			200	
ASST. ADMINISTRATOR			150	
MEDICAL OFFICER, DIRECTOR OF NURSING OR EQUIVALENT			150	
NURSES' OFFICE AND DICTATION AREA			120	
GENERAL ADMINISTRATION *(each office/person)*			120	
_____			120	
_____			120	
_____			120	
_____			120	
_____			120	
_____			120	
_____			120	
_____			120	
MAY INCLUDE: MEDICAL RECORDS			120	
SOCIAL SERVICES			120	
RECEPTION/INFORMATION			120	
CLERICAL STAFF (Each) #			80@	
COMPUTER AREA			40	
CONFERENCE ROOM/CONSULTATION AREA/IN-SERVICE TRAINING			500	
LOBBY/WAITING AREA			3/PARTICIPANT (150 min. 600	
PUBLIC TOILETS (MALE, FEMALE)			25/FIXTURE	
DIETETIC SERVICE		AR	AS REQUIRED	AR
DINING AREA			20/PARTICIPANT	
CANTEEN, RETAIL SALES			2/PARTICIPANT	
VENDING MACHINE			1/PARTICIPANT	
PARTICIPANTS TOILETS			25/FIXTURE	
MEDICAL SUPPORT (Each)			140@	
_____			140	
_____			140	
_____			140	
_____			140	
_____			140	
MAIL ROOM			120	
JANITORS CLOSET			40	

VA FORM MAR 2001 **10-0392a**

1. SUPPORT FACILITIES *(Continued)*	PROPOSED BY STATE	VA CRITERIA	TOTAL VA ALLOWED
MULTIPURPOSE ROOM		15/PARTICIPANT	
EMPLOYEE LOCKERS #EMPL.		6/EMPL.	
LOUNGE		120	
TOILETS		25/FIXTURE	
PHYSICAL THERAPY		5/PARTICIPANT	
OFFICE, IF REQUIRED		120	
OCCUPATIONAL THERAPY		5/PARTICIPANT	
OFFICE, IF REQUIRED		120	
LIBRARY		1.5/PARTICIPANT	
BUILDING MAINTENANCE STORAGE		2.5/PARTICIPANT	
RESIDENT STORAGE		6/PARTICIPANT	
GENERAL WAREHOUSE STORAGE *(medical, dietary)*	AR	6/PARTICIPANT	AR
GENERAL LAUNDRY		AS REQUIRED	
SUPPORT FACILITIES SUB-TOTAL;(No "As Required" Areas)			
AS REQUIRED AREAS:	AR	AS REQUIRED	AR
2. OTHER AREAS			
RESIDENT QUIET ROOM		3/PARTICIPANT	
CLEAN UTILITY		120	
SOILED UTILITY		105	
LINEN STORAGE		150	
GENERAL STORAGE		100	
NURSES STATION, WARD SECRETARY		260	
MEDICATION ROOM		75	
EXAMINATION/TREATMENT ROOM		140	
WAITING AREA		50	
PROGRAM SUPPLY AND EQUIPMENT		50	
STAFF TOILET		25/FIXTURE	
STRETCHER/WHEELCHAIR STORAGE		100	
KITCHENETTE		120	
JANITOR CLOSET		40	
RESIDENT LAUNDRY		120	
TRASH COLLECTION		60	
OTHER *(Justify)*			
UNIT SUB-TOTAL:			
TIMES NO. UNITS:	**X**		**X**
SUB TOTAL:			

3. BATHING AND TOILET FACILITIES	PROPOSED BY STATE	VA CRITERIA	TOTAL VA ALLOWED
A. PRIVATE OF SHARED FACILITIES			
WHEELCHAIR FACILITIES # ROOMS X @ =		25/FIXTURE	
(50% OF TOTAL, MINIMUM COMPLIANCE WITH UFAS)		25/FIXTURE	
STANDARD FACILITIES # ROOMS X @ =		15/FIXTURE	
		25/FIXTURE	
FULL BATHROOM # ROOMS X @ =		75	
		25/FIXTURE	
CONGREGATE BATHING FACILITIES - FIRST TUB/SHOWER		80	
EACH ADDITIONAL FIXTURE #		25	
UNIT SUB-TOTAL:			
TIMES NO. OF UNITS:	X		X
SUB-TOTAL - ALL UNIT TOILETS			

NOTE 1: *Mechanical, electrical and other engineering/utility areas, in addition to engineering workshops and circulation space, are not included in the Space Analysis or the Percentage of Participation calculations.*

NOTE 2: *All areas not shown on this form must be justified, on a programmatic medical care or state imposed regulatory basis, in order for VA to participate in the funding of that space.*

TOTALS	PROPOSED BY STATE		TOTAL VA ALLOWED
COMPREHENSIVE SUB-TOTALS			
SUPPORT FACILITIES - CRITERIA			
SUPPORT FACILITIES - AS REQUIRED	AR		AR
BATHING AND TOILET FACILITIES			
GRAND TOTALS - CRITERIA AREAS:			
GRAND TOTALS - AS REQUIRED AREAS:	AR		AR

If prepared by State:

I certify that this accurately reflects the proposed Space Program Analysis for this project:

_____ _____

Signature *Date*

COMPUTATIONS	PROPOSED BY STATE	ALLOWED BY VA
ANALYSIS		
CRITERIA AREAS		
10% DEVIATION		+
AS REQUIRED AREAS	+	+

TOTAL STATE PROPOSED: _____ **TOTAL VA ALLOWED:** _____

FORMULA FOR % OF VA PARTICIPATION:

VA ALLOWED: _____ **x .65**

_____ = _____ %

STATE PROPOSED: _____

OFFICIAL PERCENTAGE OF VA PARTICIPATION = _____ %

CERTIFIED _____ DATE _____

State Home Grant Program, Office of Facilities Management (181A)
811 Vermont Avenue, NW, Washington, D.C. 20420

(l) VA Form 10–5348—SAMPLE MEMORANDUM OF AGREEMENT.

Department of Veterans Affairs

SAMPLE MEMORANDUM OF AGREEMENT
(NOTE: *Contact Chief Consultant (114) for Electronic Version)*

Memorandum of Agreement for a Grant
to Construct or Acquire a State Veterans Home

This Memorandum of Agreement is hereby made by and between
The Department of Veterans Affairs (VA)
810 Vermont Avenue, NW, Washington, D.C. 20420, and

_____

_____

_____

_____ has submitted to VA an application for a grant to (construct, acquire) a (nursing home, domiciliary, adult day healthcare) facility for veterans in _____ (Federal Application Identifier: FAI) for this project is _____. The parties agree that this application meets the requirements of Federal Law for this grant. The estimated total cost of (construction and/or acquisition), including equipment, in which VA will participate, is $_____. The VA grant will total up to $_____, but will not exceed sixty-five(65) percent of the actual cost of (construction, acquisition) as determined by the final audit. In consideration of the foregoing, the parties hereto mutually agree as follows:

(1) _____ certifies that the plans and specifications included in the application meet all applicable Federal requirements.

(2) _____ agrees that it will (construct, acquire) the facility, (a description of the project, including number of beds are added or replaced), to be completed in accordance with the documentation submitted by the State.

(3) _____ agrees to comply strictly with the assurances contained in the documentation submitted.

(4) _____ agrees to enter into a contract to (construct, acquire) (a description of the project, including number of beds are added or replaced), within 90 days of the date on which both parties have signed this agreement.

(5) _____ agrees to periodically inspect the project and certify to the Chief Consultant for Geriatrics and Extended Care Strategic Healthcare Group, 810 Vermont Avenue, NW, Washington, D.C. 20420, for payment of such sums which it deems are payable by VA.

(6) _____ agrees to furnish any additional State funds needed to complete the project.

(7) _____ agrees that, upon completion of the project, it will provide adequate financial support to maintain and operate the facility.

(8) _____ agrees that following completion of the project, it will open at least eight beds per month until the project area is filled.

(9) _____ agrees that it will use the facilities principally to furnish veterans (nursing home care, domiciliary care, adult day health care) and that not more than 25 percent of the bed occupancy at any one time will consist of residents who are not receiving such level of care as veterans.

(10) _____ agrees that it will operate and maintain the facility in conformance with State standards and with all applicable State and local laws, codes, regulations and ordinances, and in conformance with the standards prescribed by VA.

(11) _____ agrees that it will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and give the Secretary, upon demand, access to the records upon which such information is based.

The Secretary of the Department of Veterans Affairs hereby approves the project. After _____ certifies its (construction, acquisition) costs as set forth in paragraph (5) above, the Secretary agrees to make partial payments of the grant to cover the costs certified. VA payments will be limited to the unpaid obligated balance of the grant for actual incurred costs for this project.

This grant is subject to the recapture provisions stated in 38 CFR 59.110.

IN WITNESS WHEREOF, the parties have hereunto affixed their signature on the dates indicated

_____

State Representative — Date

Secretary of the Department of Veterans Affairs — Date

VA FROM MAR 2001 **10-5348**

(m) Standard Form 271—OUTLAY REPORT AND REGUEST FOR REIMBURSEMENT FOR CONSTRUCTION PROGRAMS.

OUTLAY REPORT AND REQUEST FOR REIMBURSEMENT FOR CONSTRUCTION PROGRAMS (See instructions on back)		Approved by Office of Management and Budget, No. 80–R0181	PAGE OF PAGES
		1. TYPE OF REQUEST ☐ FINAL ☐ PARTIAL	2. BASIS OF REQUEST ☐ CASH ☐ ACCRUAL
3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED		4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY	5. PARTIAL PAYMENT REQUEST NO.
6. EMPLOYER IDENTIFICATION NUMBER	7. RECIPIENT ACCOUNT OR OTHER IDENTIFYING NUMBER	PERIOD COVERED BY THIS REPORT	
		FROM (Month, day, year)	TO (Month, day, year)
9. RECIPIENT ORGANIZATION Name : No. and Street : City, State and ZIP Code :		10. PAYEE (Where check should be sent if different than item 9) Name : No. and Street : City, Street and ZIP Code :	

11. STATUS OF FUNDS

CLASSIFICATION	PROGRAMS—FUNCTIONS—ACTIVITIES (a)	(b)	(c)	TOTAL
a. Administrative expense	$	$	$	$
b. Preliminary expense				
c. Land, structures, right-of-way				
d. Architectural engineering basic fees				
e. Other architectural engineering fees				
f. Project inspection fees				
g. Land development				
h. Relocation expense				
i. Relocation payments to individuals and businesses				
j. Demolition and removal				
k. Construction and project improvement cost				
l. Equipment				
m. Miscellaneous cost				
n. Total cumulative to date (sum of lines a thru m)				
o. Deductions for program income				
p. Net cumulative to date (Line n minus line o)				
q. Federal share to date				
r. Rehabilitation grants (100% reimbursement)				
s. Total Federal share (sum of lines q and r)				
t. Federal payments previously requested				
u. Amount requested for reimbursement	$	$	$	$
v. Percentage of physical completion of project	%	%	%	%

12. CERTIFICATION			
I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with the terms of the project and that the reimbursement represents the Federal share due which has not been previously requested and that an inspection has been performed and all work is in accordance with the terms of the award.	a. RECIPIENT	SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REPORT SUBMITTED
		TYPED OR PRINTED NAME AND TITLE	TELEPHONE (Area code, number and extension)
	b. Representative certifying to line 11v.	SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE SIGNED
		TYPED OR PRINTED NAME AND TITLE	TELEPHONE (Area code number and extension)

271–102

STANDARD FORM 271 (7–76)
Prescribed by Office of Management and Budget
Cir. No. A–110

INSTRUCTIONS

Please type or print legibly. Items 3, 4, 5, 8, 9, 10, 11s, and 11v are self-explanatory; specific instructions for other items are as follows:

Item	*Entry*
1	Mark the appropriate box. If the request is final, the amounts billed should represent the final cost of the project.
2	Show whether amounts are computed on an accrued expenditure or cash disbursement basis.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service [or FICE (institution) code if requested by the Federal agency].
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
11	The purpose of vertical columns (a) through (c) is to provide space for separate cost breakdowns when a large project has been planned and budgeted by program, function or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page. All amounts are reported on a cumulative basis.
11a	Enter amounts expended for such items as travel, legal fees, rental, of vehicles and any other administrative expenses. Include the amount of interest expense when authorized by program legislation. Also show the amount of interest expense on a separate sheet.
11b	Enter amounts pertaining to the work of locating and designing, making surveys and maps, sinking test holes, and all other work required prior to actual construction.
11c	Enter all amounts directly associated with the acquisition of land, existing structures and related right-of-way.
11d	Ener basic fees for services of architectural engineers.
11e	Enter other architectural engineering services. Do not include any amounts shown on line d.
11f	Enter inspection and audit fees of construction and related programs.
11g	Enter all amounts associated with the development of land where the primary purpose of the grant is land improvement. The amount pertaining to land development normally associated with major construction should be excluded from this category and entered on line k.
11h	Enter the dollar amounts used to provide relocation advisory assistance and net costs of replacement housing (last resort). Do not include amounts needed for relocation administrative expenses; these amounts should be included in amounts shown on line a.
11i	Enter the amount of relocation payments made by the recipient to displaced persons, farms, business concerns, and nonprofit organizations.
11j	Enter gross salaries and wages of employees of the recipient and payments to third party contractors directly engaged in performing demolition or removal of structures from developed land. All proceeds from the sale of salvage or the removal of structures should be credited to this account; thereby reflecting net amounts if required by the Federal agency.
11k	Enter those amounts associated with the actual construction of, addition to, or restoration of a facility. Also, include in this category, the amounts for project improvements such as sewers, streets, landscaping, and lighting.
11l	Enter amounts for all equipment, both fixed and movable, exclusive of equipment used for construction. For example, permanently attached laboratory tables, built-in audio visual systems, movable desks, chairs, and laboratory equipment.
11m	Enter the amounts for all items not specifically mentioned above.
11n	Enter the total cumulative amount to date which should be the sum of lines a through m.
11o	Enter the total amount of program income applied to the grant or contract agreement except income included on line j. Identify on a separate sheet of paper the sources and types of the income.
11p	Enter the net cumulative amount to date which should be the amount shown on line n minus the amount on line o.
11q	Enter the Federal share of the amount shown on line p.
11r	Enter the amount of rehabilitation grant payments made to individuals when program legislation provides 100 percent payment by the Federal agency.
11t	Enter the total amount of Federal payments previously requested, if this form is used for requesting reimbursement.
11u	Enter the amount now being requested for reimbursement. This amount should be the difference between the amounts shown on lines s and t. If different, explain on a separate sheet.
12a	To be completed by the recipient official who is responsible for the operation of the program. The date should be the actual date the form is submitted to the Federal agency.
12b	To be completed by the official representative who is certifying to the percent of project completion as provided for in the terms of the grant or agreement.

(n) Standard Form 424—APPLICATION FOR FEDERAL ASSISTANCE.

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ **Construction** ☐ **Non-Construction** / Preapplication ☐ **Construction** ☐ **Non-Construction**		**3. DATE RECEIVED BY STATE**	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code):*	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

SF-424 (Rev. 7-97) Back

(o) Standard Form 424C—INSTRUCTIONS FOR THE SF–424C.

OMB Approval No. 0348-0041

BUDGET INFORMATION - Construction Programs

NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.

COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)
1. Administrative and legal expenses	$ .00	$ .00	$ .00
2. Land, structures, rights-of-way, appraisals, etc.	$ .00	$ .00	$ .00
3. Relocation expenses and payments	$ .00	$ .00	$ .00
4. Architectural and engineering fees	$ .00	$ .00	$ .00
5. Other architectural and engineering fees	$ .00	$ .00	$ .00
6. Project inspection fees	$ .00	$ .00	$ .00
7. Site work	$ .00	$ .00	$ .00
8. Demolition and removal	$ .00	$ .00	$ .00
9. Construction	$ .00	$ .00	$ .00
10. Equipment	$ .00	$ .00	$ .00
11. Miscellaneous	$ .00	$ .00	$ .00
12. SUBTOTAL *(sum of lines 1-11)*	$ .00	$ .00	$ .00
13. Contingencies	$ .00	$ .00	$ .00
14. SUBTOTAL	$ .00	$ .00	$ .00
15. Project (program) income	$ .00	$ .00	$ .00
16. TOTAL PROJECT COSTS *(subtract #15 from #14)*	$ .00	$ .00	$ .00
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.	Enter eligible costs from line 16c Multiply X _____%		$ .00

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Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424C

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0041), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This sheet is to be used for the following types of applications: (1) "New" (means a new [previously unfunded] assistance award); (2) "Continuation" (means funding in a succeeding budget period which stemmed from a prior agreement to fund); and (3) "Revised" (means any changes in the Federal Government's financial obligations or contingent liability from an existing obligation). If there is no change in the award amount, there is no need to complete this form. Certain Federal agencies may require only an explanatory letter to effect minor (no cost) changes. If you have questions, please contact the Federal agency.

Column a. - If this is an application for a "New" project, enter the total estimated cost of each of the items listed on lines 1 through 16 (as applicable) under "COST CLASSIFICATION."

If this application entails a change to an existing award, enter the eligible amounts *approved under the previous award* for the items under "COST CLASSIFICATION."

Column b. - If this is an application for a "New" project, enter that portion of the cost of each item in Column a. which is *not* allowable for Federal assistance. Contact the Federal agency for assistance in determining the allowability of specific costs.

If this application entails a change to an existing award, enter the adjustment [+ or (-)] to the previously approved costs (from column a.) reflected in this application.

Column. - This is the net of lines 1 through 16 in columns "a." and "b."

Line 1 - Enter estimated amounts needed to cover administrative expenses. Do not include costs which are related to the normal functions of government. Allowable legal costs are generally only those associated with the purchases of land which is allowable for Federal participation and certain services in support of construction of the project.

Line 2 - Enter estimated site and right(s)-of-way acquisition costs (this includes purchase, lease, and/or easements).

Line 3 - Enter estimated costs related to relocation advisory assistance, replacement housing, relocation payments to displaced persons and businesses, etc.

Line 4 - Enter estimated basic engineering fees related to construction (this includes start-up services and preparation of project performance work plan).

Line 5 - Enter estimated engineering costs, such as surveys, tests, soil borings, etc.

Line 6 - Enter estimated engineering inspection costs.

Line 7 - Enter estimated costs of site preparation and restoration which are not included in the basic construction contract.

Line 9 - Enter estimated cost of the construction contract.

Line 10 - Enter estimated cost of office, shop, laboratory, safety equipment, etc. to be used at the facility, if such costs are not included in the construction contract.

Line 11 - Enter estimated miscellaneous costs.

Line 12 - Total of items 1 through 11.

Line 13 - Enter estimated contingency costs. (Consult the Federal agency for the percentage of the estimated construction cost to use.)

Line 14 - Enter the total of lines 12 and 13.

Line 15 - Enter estimated program income to be earned during the grant period, e.g., salvaged materials, etc.

Line 16 - Subtract line 15 from line 14.

Line 17 - This block is for the computation of the Federal share. Multiply the total allowable project costs from line 16, column "c." by the Federal percentage share (this may be up to 100 percent; consult Federal agency for Federal percentage share) and enter the product on line 17.

(p) Standard Form 424D—ASSURANCES—CONSTRUCTION PROGRAMS.

OMB Approval No. 0348-0042

ASSURANCES - CONSTRUCTION PROGRAMS

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PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property aquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.

4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.

5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.

6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

Standard Form 424D (Rev. 7-97)

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11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.

14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

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(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137; Sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968, as amended, Public Law 90–480, 42 U.S.C. 4151–4157)

[FR Doc. 01–15773 Filed 6–25–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–7002–3]

Land Disposal Restrictions: Granting of a Site-Specific Treatment Variance to Dupont Environmental Treatment—Chambers Works Wastewater Treatment Plant, Deepwater, NJ

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is promulgating a site-specific treatment variance from the Land Disposal Restrictions (LDR) standards for wastewater treatment sludge generated at the Dupont Environmental Treatment (DET)—Chambers Works Wastewater Treatment Plant located in Deepwater, New Jersey. This sludge is derived from the treatment of multiple listed wastes, including K088, and characteristic hazardous waste, and differs significantly from the waste used to establish the LDR treatment standard for arsenic in K088 nonwastewaters. Accordingly, we are finalizing an alternate treatment standard of 5.0 mg/L Toxicity Characteristic Leaching Procedure (TCLP) for the arsenic in the wastewater treatment sludge generated at this facility.

This treatment variance requires DET to dispose of their wastewater treatment sludge in their on-site RCRA Subtitle C landfill provided the sludge complies with the specified alternate treatment standard for arsenic in K088 nonwastewaters and meets all other applicable LDR treatment standards.

DATES: This rule is effective June 26, 2001.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F–2001–DPVF–FFFFF and is located in the RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. The RIC is open from 9 am to 4 pm Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $0.15 per page. (The index is available electronically. See the ''Supplementary Information'' section for information on accessing them).

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). The RCRA Call Center operates Monday-Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this rule, contact Elaine Eby at 703–308–8449, eby.elaine@epa.gov, or write her at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

SUPPLEMENTARY INFORMATION:

Availability of Rule on Internet

Please follow these instructions to access the rule: From the World Wide Web (WWW), type http://www.epa.gov/epaoswer/hazwaste/ldr.

The official record for this action will be kept in paper form. Accordingly, EPA has transferred any comments received electronically into paper form and placed them in the official record which also includes comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

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I. Why and How Are Treatment Variances Granted?

Under Section 3004(m) of the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984, EPA is required to set ''levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' We have interpreted this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was sustained by the court in *Hazardous Waste Treatment Council* vs. *EPA,* 886 F. 2d 355 (D.C.Cir.1989).

We recognize that there may be wastes that cannot be treated to levels specified in the regulation (see 40 CFR 268.40) (51 FR 40576, November 7, 1986). For such wastes, a treatment variance exists (40 CFR 268.44) that, if granted, becomes the treatment standard for the waste at issue.

Treatment variances may be generic or site-specific. A generic variance can result in the establishment of a new treatability group and a corresponding treatment standard that applies to all wastes that meet the criteria of the new waste treatability group (55 FR 22526, June 1, 1990). A site-specific variance applies only to a specific waste from a specific facility. Under 40 CFR 268.44(h), a generator or treatment facility may apply to the Administrator, or EPA's delegated representative, for a site-specific variance in cases where a waste that is generated under conditions specific to only one site and cannot or should not be treated to the specified level(s). The applicant for a site-specific variance must demonstrate that because the physical or chemical properties of the waste differ significantly from the waste analyzed in development of the treatment standard, the waste cannot be treated by BDAT to the specified levels or by the specified method(s). Although there are other grounds for obtaining treatment variances, we will not discuss those in this notice because this is the only provision relevant to the present petition.

Dupont Environmental Treatment—Chambers Works submitted their request for a treatment variance in February 2000. All information and data used in the development of this final rule can be found in the RCRA docket supporting this rule.

II. Summary of the Proposed Rule

On December 4, 2000 (65 FR 75651), we published a proposed rule detailing our intent to grant a site-specific variance from the K088 treatment standard for arsenic in nonwastewaters to Dupont Environmental Treatment—

Chambers Works (herein referred to as ''DET'') for their dewatered wastewater treatment sludge.[1] In the proposal, we conclude that an alternative treatment standard of 5.0 mg/L TCLP for arsenic is warranted for the following reasons. First, the sludge generated at DET's WWTP is not the same type of waste that was used to develop the 26.1 mg/kg treatment standard for arsenic in K088 nonwastewaters, nor does it present the same situation regarding the use of a total arsenic standard to lock-in treatment process parameters. Second, the sludge will be disposed of in a Subtitle C hazardous waste landfill with pH conditions in the range of 6.5 to 8.5 and not the alkaline conditions, i.e., pH conditions of 12 and above, that resulted in mobilization of arsenic at Reynold's K088 landfill. Thus, the conditions that prompted the change in the K088 treatment standard are absent for this site. Third, the TCLP remains an adequate measure of treatment efficiency for DET's WWTP sludge due to the non-alkaline sludge matrix and the expected disposal conditions. Therefore, we believe that a TCLP standard of 5.0 mg/L is a reasonable measure of demonstrating that threats posed by the waste's disposal have been minimized. Fourth, the alternative standard of 5.0 mg/L TCLP is currently the standard applicable to arsenic in all other hazardous wastes, except K088 nonwastewaters. Fifth, data submitted to the Agency shows that DET's dewatered WWTP sludge consistently maintains both a neutral pH and TCLP levels of arsenic far less than 5.0 mg/L. Finally, arsenic concentrations in the WWTP sludge cannot be treated to a lower treatment standard based on a totals analysis, i.e., arsenic is an element and as such must be immobilized, it cannot be destroyed.

III. Comment Summary and Final Rule

We received two comments on the proposed rule. Both commenters, the petitioner, DET, and Alcoa Incorporated/Reynolds Metals Company (herein referred to as ''Alcoa''), support all the conclusions articulated in the proposal and recommend granting the petition. No adverse comments were made. Alcoa did note, however, that the stipulation, ''* * * the waste must be land disposed in their (DET's) on-site subtitle C landfill * * *'' (65 FR at 75654) was not specifically reflected in the regulatory language. As such, we are today granting DET's petition for a site-specific treatment variance for their WWTP sludge and will amend 40 CFR part 268 to state that wastewater treatment sludge generated by Dupont Environmental Treatment—Chambers Works Wastewater Treatment Plant in Deepwater, New Jersey is subject to an arsenic treatment standard of 5.0 mg/L TCLP for all RCRA wastes. Furthermore, taking note of Alcoa's concern, we stipulate, and make clear in the regulatory language, that the waste must be land disposed in DET's on-site Subtitle C landfill assuming the waste meets all applicable federal, state and local requirements.

IV. Administrative Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because this final rule does not create any new regulatory requirements, it is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. This treatment variance does not create any new regulatory requirements. Rather, it establishes an alternative treatment standard for a regulated constituent. This action, therefore, does not require a regulatory flexibility analysis.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. If a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why that alternative was not adopted. The provisions of section 205 do not apply when they are inconsistent with applicable law.

EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more in the aggregate to

[1] DET WWTP operates as both a commercial treatment facility for industrial and RCRA hazardous waste and as an internal treatment operation for E. I. Dupont de Nemours' numerous manufacturing operations. As the largest wastewater treatment facility in the United States, DET WWTP processes approximately 16 million gallons of wastewater per day or 5.84 billion gallons per year. It should be noted, however, that the WWTP sludge at issue here is generated by the biological treatment of a relatively small quantity of wastewater carrying the K088 waste designation. This K088 wastewater accounts for less than 0.002% of the total annual throughput at DET WWTP.

either State, local, or tribal governments or the private sector in one year. The rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. States, tribes, and local governments would have no compliance costs under this final rule. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act. Thus, today's rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule will not significantly or uniquely affect small governments. This final rule will not impose any requirements on small entities. This treatment variance does not create any new regulatory requirements. Rather, it establish an alternative treatment standard for a regulated constituent at the specific facility. Today's rule is not, therefore, subject to the requirements of section 203 of UMRA.

D. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The subject wastes will comply with all other treatment standards and be disposed of in a RCRA Subtitle C landfill. Therefore, we have identified no risks that may disproportionately affect children.

E. Environmental Justice Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in clean and sustainable communities. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

Today's final rule applies to wastes that will be treated and disposed of in a RCRA Subtitle C hazardous waste landfill, ensuring a high degree of protection to human health and the environment. Therefore, the Agency does not believe that today's action will result in any disproportionately negative impacts on minority or low-income communities relative to affluent or non-minority communities.

F. Paperwork Reduction Act

This rule only changes the treatment standards applicable to a subcategory of K088 waste. It does not change in any way the paperwork requirements already applicable to these waste. Therefore, this rule is not affected by the requirements of the Paperwork Reduction Act.

G. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards based on new methodologies. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Consultation With Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This treatment variance does not create any new regulatory requirements. Rather, it establishes an alternative treatment standard for a regulated constituent at the specific facility. Thus, Executive Order 13175 does not apply to this rule.

I. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure

''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implication.'' ''Policies that have federalism implication'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This treatment variance does not create any new regulatory requirements. Rather, it establishes an alternative treatment standard for a regulated constituent at the specific facility. Thus, Executive Order 13132 does not apply to this rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: June, 14, 2001.

Michael Shapiro,

Acting Assistant Administrator for Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.44, the table in paragraph (o) is amended by adding in alphabetical order a new entry for ''Dupont Environmental Treatment—Chambers Works Wastewater, Deepwater, NJ'' and adding a new footnote 8 to read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(o) * * *

TABLE—WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER § 268.40

Facility name [1] and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/kg)	Notes
*	*	*	*	*	*	*	
Dupont Environmental Treatment—Chambers Works Wastewater Treatment Plant, Deepwater, NJ [8].	K088	Standards under § 268.40.	Arsenic	1.4	NA	5.0 mg/L TCLP	NA
*	*	*	*	*	*	*	

[1] A facility may certify compliance with these treatment standards according to provisions in 40 CFR 268.7.

* * * * * * *

[8] Dupont Environmental Treatment—Chambers Works must dispose of this waste in their on-site Subtitle C hazardous waste landfill.

Note: NA means Not Applicable.

[FR Doc. 01–15880 Filed 6–25–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–B–7415]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Administrator, Federal Insurance Administration and Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance Administration and Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Alaska: Unorganized Borough.	Municipality of Anchorage.	April 6, 2001, April 13, 2001, *Anchorage Daily News*.	The Honorable George P. Wuerch, Mayor, Municipality of Anchorage, P.O. Box 196650, Anchorage, Alaska 99519–6650.	March 14, 2001	020005
Arkansas:					
Faulkner	City of Conway	April 5, 2001, April 13, 2001, *Log Cabin Democrat*.	The Honorable Tab Townsell, Mayor, City of Conway, City Hall, 1201 Oak Street, Conway, Arkansas 72032.	March 13, 2001	050078
Faulkner	Unincorporated Areas.	April 5, 2001, April 13, 2001, *Log Cabin Democrat*.	The Honorable John Wayne Carter, Faulkner County Judge, Faulkner County Court House, 801 Locust Avenue, Conway, Arkansas 72032.	March 13, 2001	050431
Arizona:					
Maricopa	City of Scottsdale	April 6, 2001, April 13, 2001, *Arizona Republic*.	The Honorable Mary Manross, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, Arizona 85251.	March 13, 2001	045012
Maricopa	City of Tucson	March 23, 2001, March 30, 2001, *Tucson Citizen*.	The Honorable Robert Walkup, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	March 5, 2001	040076
Maricopa	Unincorporated Areas.	April 6, 2001, April 13, 2001, *Arizona Republic*.	The Honorable Janice K. Brewer, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, Arizona 85003.	July 5, 2001	040037
California:					
Los Angeles ..	City of Los Angeles.	March 30, 2001, April 6, 2001, *Metropolitan News-Enterprise*.	The Honorable Richard Riordan, Mayor, City of Los Angeles, 200 North Main Street, Room 800, Los Angeles, California 90012.	March 6, 2001	060137
Los Angeles ..	Unincorporated Areas.	March 30, 2001, April 6, 2001, *Whittier Daily News*.	The Honorable Michael Antonovich, Chairperson, Los Angeles County Board of Supervisors, 500 West Temple Street, Suite 869, Los Angeles, California 90012.	March 9, 2001	065043

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
San Diego	City of El Cajon	May 17, 2001, May 24, 2001, *East County Californian*.	The Honorable Mark Lewis, Mayor, City of El Cajon, 200 East Main Street, El Cajon, California 92020.	April 27, 2001	060289
San Diego	Unincorporated Areas.	May 17, 2001, May 24, 2001, *San Diego Union Tribune*.	The Honorable Bill Horn, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	April 27, 2001	060284
Santa Clara ...	City of Santa Clara	April 11, 2001, April 18, 2001, *Santa Clara Weekly*.	The Honorable Judy Nadler, Mayor, City of Santa Clara, City Hall, 1500 Warburton Avenue, Santa Clara, California 95050.	July 17, 2001	060350
Santa Clara ...	City of Milpitas	May 31, 2001, June 7, 2001, *Milpitas Post*.	The Honorable Henry Manayan, Mayor, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, California 95035.	May 15, 2001	060344
Colorado: Boulder and Jefferson.	City of Broomfield	May 30, 2001, June 6, 2001, *Broomfield Enterprise*.	The Honorable William Berens, Mayor, City of Broomfield, One DesCombes Drive, Broomfield, Colorado 80020.	September 4, 2001.	085073
Montana: Butte-Silver.	Unincorporated Areas Bow County.	March 23, 2001, March 30, 2001, *Montana Standard*.	The Honorable Judy Jacobsen, Chief Executive Officer, Butte-Silver Bow County Courthouse, Room 106, 155 West Granite Street, Butte, Montana 59701.	March 1, 2001	300077
Nevada:					
Clark	City of North Las Vegas.	May 18, 2001, May 25, 2001, *Las Vegas Review Journal*.	The Honorable Michael L. Montandon, Mayor, City of North Las Vegas, P.O. Box 4086, North Las Vegas, Nevada 89030–4086.	April 27, 2001	320007
Nye	Unincorporated Areas.	April 26, 2001, May 3, 2001, *Tonopah Times*.	The Honorable Jeff Taguchi, Chairman, Nye County Board of Commissioners, P.O. Box 153, Tonopah, Nevada 89049.	April 5, 2001	320018
Texas:					
Angelina	City of Lufkin	March 30, 2001, April 6, 2001, *Lufkin Daily News*.	The Honorable Louis A. Bronaugh, Mayor, City of Lufkin, 300 East Shepherd, Lufkin, Texas 75902.	June 28, 2001	480009
Collin	City of Murphy	August 16, 2000, August 23, 2000, *Wylie News*.	The Honorable Roy W. Bentle, Mayor, City of Murphy, 205 North Murphy Road, Murphy, Texas 75094.	July 25, 2000	480137
Fort Bend	City of Stafford	April 18, 2001, April 25, 2001, *Fort Bend Star*.	The Honorable Leonard Scarcella, Mayor, City of Stafford, City Hall, 2610 South Main Street, Stafford, Texas 77477.	March 23, 2001	480233
Wyoming: Teton ...	Town of Jackson ..	October 25, 2000, November 1, 2000, *Jackson Hole News*.	The Honorable Barney Oldfield, Mayor, Town of Jackson, P.O. Box 1687, Jackson, Wyoming 83001.	January 30, 2001	560052
Virginia:					
Rockingham ..	City of Harrisonburg.	April 12, 2001, April 19, 2001, *Daily News Record*.	The Honorable Carolyn W. Frank, Mayor, City of Harrisonburg, 374 South Carlton Street, Harrisonburg, Virginia 22801.	March 28, 2001	510076
Rockingham ..	Unincorporated Areas.	April 12, 2001, April 19, 2001, *Daily News Record*.	The Honorable Pablo Cuevas, Chairman, Rockingham County Board of Supervisors, 543 Elm Street, Broadway, Virginia 22815.	March 28, 2001	510133

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: June 18, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance Administration and Mitigation.

[FR Doc. 01–15925 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the

National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA makes final determinations listed below of BFEs and modified BFEs for each community listed. The proposed BFEs and proposed modified BFEs were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed BFEs and proposed modified BFEs were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance Administration and Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
ALASKA	
Shishmaref (City), Unorganized Borough (FEMA Docket No. B–7407)	
Chukchi Sea:	
Approximately 3,140 feet west of Old Gravel Airstrip along north shore of Sarichef Island	[1] 8
Approximately 400 feet east of Old Gravel Airstrip along north shore of Sarichef Island	[1] 8
Shishmaref Inlet:	
Approximately 1,100 feet east of Old Gravel Airstrip along south shore of Sarichef Island	[1] 5
Approximately 3,140 feet west of Old Gravel Airstrip along south shore of Sarichef Island	[1] 8
[1] Mean Sea Level.	
Maps are available for inspection at the Shishmaref City Hall, Shishmaref, Alaska.	
ARKANSAS	
Texarkana (City), Miller County (FEMA Docket No. B–7404)	
Lost Creek:	
Approximately 1,400 feet downstream of Oats Street	+313
Approximately 1,000 feet upstream of Old Post Road	+353
Love Creek:	
Approximately 2,700 feet downstream of East Broad Street	+301
Just upstream of Missouri Pacific Railroad	+313
Approximately 600 feet upstream of Meadows Road	+378
Love Creek Tributary:	
Approximately 1,200 feet downstream of Magee Drive	+357
Approximately 250 feet upstream of Meadows Road	+377
McKinney Bayou Tributary:	
Approximately 5,000 feet downstream of Sugar Hill Road	+271
Approximately 2,800 feet upstream of State Highway 245	+312
McKinney Bayou Tributary 2A:	
Approximately 5,500 feet downstream of Sugar Hill Road (State Route 296)	+266
Just upstream of Sugar Hill Road (State Route 296)	+306
Approximately 3,300 feet upstream of Sugar Hill Road (State Route 296)	+324
McKinney Bayou Tributary 2B:	
At confluence with McKinney Bayou Tributary 2A	+306
Approximately 2,000 feet upstream of confluence with McKinney Bayou Tributary 2A	+318
McKinney Bayou Tributary 3:	
Approximately 3,200 feet downstream of Sugar Hill Road	+271
Approximately 650 feet upstream of Interstate 30	+315
McKinney Bayou Tributary 4:	
Approximately 650 feet downstream of Sugar Hill Road	+280
Approximately 5,500 feet upstream of Sugar Hill Road	+315
+NAVD of 1988.	
Maps are available for inspection at City Hall, 216 Walnut Street, Texarkana, Arkansas.	
CALIFORNIA	
Clayton (City), Contra Costa County (FEMA Docket No. B–7408)	
Donner Creek:	
At confluence with Mt. Diablo Creek	*424
Approximately 4,400 feet upstream of Marsh Creek Road	*516
Mitchell Creek:	
At confluence with Mt. Diablo Creek	*377

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Approximately 1,600 feet upstream of Oak Street	*444
Mt. Diablo Creek:	
Just upstream of Kirker Pass Road	*304
Just upstream of Oak Circle	*576
Mt. Diablo Creek Split Flow:	
Approximately 620 feet downstream of North Mitchell Canyon Road	*342
Approximately 1,700 feet upstream of North Mitchell Canyon Road	*370
Maps are available for inspection at City Hall, 6000 Heritage Trail, Clayton, California.	
Concord (City), Contra Costa County (FEMA Docket No. B–7408)	
Galindo Creek:	
Approximately 100 feet upstream of San Miguel Road	*63
Just upstream of St. Francis Drive	*127
Approximately 200 feet downstream of Dam #1	*220
Mt. Diablo Creek:	
Approximately 2,675 feet downstream of Bailey Road	*196
Approximately 2,475 feet upstream of Kirker Pass Road	*323
Maps are available for inspection at the Permit Center, 3024 Willow Pass Road, Concord, California.	
Contra Costa County (Unincorporated Areas) (FEMA Docket No. B–7408)	
Mitchell Creek:	
Approximately 1,670 feet downstream of Diablo Downs Road	*444
Approximately 2,150 feet upstream of Diablo Downs Road	*535
Mt. Diablo Creek:	
Immediately upstream of Bailey Road	*217
Downstream of Russelman Park Road	*609
Green Valley Creek:	
At Stone Valley Road	*467
Approximately 4,410 feet upstream of Green Valley Road	*573
Rodeo Creek:	
At confluence with San Pablo Creek	*6
Approximately 425 feet upstream of Hawthorne Drive	*28
Garrity Creek:	
Approximately 350 feet downstream of Southern Pacific Railroad	*6
Approximately 165 feet upstream of Brian Road	*25
Grayson Creek:	
Approximately 1,890 feet (.36 mile) downstream of Interstate	*15
Approximately 195 feet upstream of 2nd Avenue South	*20
Arroyo Del Hambra Creek:	
Approximately 1,280 feet (.24 mile) upstream of Alhambra Avenue	*176
Approximately 2,858 feet (.54 mile) upstream of Alhambra Avenue	*190
Appiam Creek:	
At upstream side of Garden Road	*108
Approximately 1,320 feet upstream of Appian Way	*134
West Alamo Creek:	
Approximately 2,870 feet (.54 mile) downstream of Green Meadow Drive	*718
At upstream side of BlackHawk Meadow Drive	*804
Wildcat Creek:	
Approximately 475 feet downstream of Atchison Topeka and Santa Fe Railroad	*29
Maps are available for inspection at the Public Works Department, 255 Glacier Drive, Martinez, California	
Danville (City), Contra Costa County (FEMA Docket No. B–7408)	
Green Valley Creek:	
Just upstream of Interstate 680 Culvert	*355
Just downstream of Stone Valley Road	*467
East Branch Valley Creek:	
At confluence with Green Valley Creek	*423
Approximately 1,600 feet upstream of Green Valley Road	*458
Maps are available for inspection at City Hall, 510 La Gonda Way, Danville, California.	
Fresno (City), Fresno County (FEMA Docket No. B–7404)	
San Joaquin River:	
Just upstream of State Highway 99	*245
Approximately 1.10 miles upstream of State Highway 41	*280
Maps are available for inspection at 2600 Fresno Street, Fresno, California.	
Fresno County, Unincorporated Areas (FEMA Docket No.B–7404)	
San Joaquin River:	
Just upstream of Southern Pacific Railroad	*168
Approximately 1.10 miles upstream of State Highway 41	*280
Just downstream of Friant Dam	*329
Maps are available for inspection at the Fresno County Library, 2420 Mariposa Street, Fresno, California	
Pittsburg (City), Contra Costa County (FEMA Docket No. B–7408)	
Kirker Creek:	
Approximately 170 feet downstream of East 14th Street	*37
Approximately 140 feet upstream of Brush Creek Drive	*208
Maps are available for inspection at City Hall, 65 Civic Avenue, Pittsburg, California.	
Richmond (City), Contra Costa County (FEMA Docket No. B–7404)	
San Pablo Creek:	
Approximately 690 feet downstream of Atchison, Topeka and Santa Fe Railway	*18
Approximately 60 feet upstream of Atchison, Topeka and Santa Fe Railway	*24
Wild Cat Creek:	
Approximately 400 feet downstream of Atchison, Topeka and Santa Fe Railway	*27
At Atchison, Topeka and Santa Fe Railway	*30
Approximately 115 feet upstream of Atchison, Topeka and Santa Fe Railway	*31
Maps are available for inspection at City Hall, 2600 Barrett Avenue, Richmond, California.	
COLORADO	
Breckenridge (Town) Summit County (FEMA Docket No. 7298)	
River Middle Branch:	
Approximately 1,160 feet upstream of County Road 3	*9,350
Approximately 1,800 feet upstream of South Park Drive	*9,631
Cucumber Gulch:	
Approximately 100 feet upstream of confluence with Blue River Middle Branch	*9,457
Approximately 50 feet upstream of Airport Road	*9,469
Illinois Gulch:	
At confluence with Blue River Middle Branch	*9,615
Approximately 200 feet upstream of Boreas Pass Road	*9,743
Jones Gulch:	
Approximately 1,250 feet upstream from confluence with Blue River	*9,623
Approximately 2,300 feet upstream from confluence with Blue River	*9,665
Maps are available for inspection at the Engineering Office, 150 Ski Road, Breckenridge, Colorado.	
Silverthorne (Town), Summit County (FEMA Docket No. B–7404)	
Blue River:	
Approximately 3,400 feet downstream of Hamilton Circle Road	+8,619
Approximately 1,150 feet upstream of U.S. Route 70	+8,773
Willow Creek:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Approximately 700 feet downstream of Legend Lake Circle	+8,865
Approximately 550 feet upstream of Ranch Road	+8,869
Straight Creek:	
Just downstream of River Road	+8,772
Approximately 750 feet upstream of Route 9	+8,841
Elevation in feet (NAVD of 1988).	
Maps are available for inspection at the Town Hall, 601 Center Circle, Silverthorne, Colorado.	
Summit County (Unincorporated Areas) (FEMA Docket No. 7306)	
Blue River Middle Branch:	
Just downstream of County Road 3	*9,341
Approximately 1,160 feet upstream of County Road 3	*9,351
Cucumber Gulch:	
Approximately 60 feet upstream of Airport Road	*9,469
Approximately 2,030 feet upstream of Airport Road	*9,548
Illinois Gulch:	
Approximately 3,925 feet upstream of confluence with Blue River	*9,743
Approximately 475 feet upstream of Robbers Nest Road	*9,893
Maps are available for inspection at the Summit County GIS Department, 37 Summit County Road #1005, Frisco, Colorado.	
Summit County, Unincorporated Areas (FEMA Docket No. B–7404)	
Willow Creek:	
At confluence with Blue River	*8,674
Approximately 400 feet upstream of Ranch Road	*8,864
Blue River:	
Approximately 3,400 feet downstream of Winegard Road	*8,565
Approximately 2,400 feet upstream of Interstate 70	*8,777
Maps are available for inspection at the Summit County GIS Department, 37 Summit County Road #1005, Frisco, Colorado.	
IDAHO	
Idaho County (Unincorporated Areas) (FEMA Docket No. B–7408)	
Rapid River:	
Approximately 250 feet upstream of Interstate Highway 95	*2,002
Approximately 4,830 feet upstream of Interstate Highway 95	*2,078
Maps are available for inspection at 320 West Main Street, Grangeville, Idaho.	
IOWA	
Shell Rock (City) (Butler County) (FEMA Docket No. B–7404)	
Shell Rock River:	
Approximately 4,900 feet downstream of Cherry Street	*900
Approximately 5,000 feet upstream of Cherry Street	*909
Shell Rock River Overflow Channel:	
At confluence with Shell Rock River	*900
Immediately downstream of Lake Street	*902
Maps are available for inspection at City Hall, 303 South Cherry Street, Shell Rock, Iowa.	
KANSAS	
Andover (City), Butler County (FEMA Docket No. B–7401)	
Four Mile Creek:	
Approximately 12.9 miles upstream of confluence with Walnut River	*1,266
Approximately 17.5 miles upstream of confluence with Walnut River	*1,288
Four Mile Creek Tributary:	
Just upstream of 110th Street	*1,287
Approximately 9,850 feet upstream of confluence with Four Mile Creek	*1,312
Republican Creek:	
At approximately 1.3 miles upstream of confluence with Four Mile Creek	*1,266
At downstream side of Andover Road	*1,338
Republican Creek Tributary:	
Approximately 1,900 feet downstream of U.S. Highway 54	*1,290
Just upstream of U.S. Highway 54	*1,300
North Tributary to Republican Creek:	
Approximately 500 feet downstream of Andover Road	*1,341
Just upstream of Andover Road	*1,343
Terradyne Fork:	
Approximately 2,500 feet upstream of confluence with Four Mile Creek	*1,320
Approximately 7,300 feet upstream of confluence with Four Mile Creek	*1,348
Maps are available at City Hall, 909 North Alexander Road, Andover, Kansas.	
Butler County (Unincorporated Areas) (FEMA Docket No. B–7401)	
Constant Creek:	
At confluence with Walnut River	*1,270
Just upstream of Atchison, Topeka and Santa Fe Railway	*1,278
At downstream side of Interstate Highway 35/Kansas Turnpike	*1,335
Dry Creek:	
At mouth of Santa Fe Lake north limits	*1,275
Approximately 250 feet downstream of Interstate Highway 35/Kansas Turnpike	*1,294
Dry Creek Tributary:	
At confluence with Dry Creek	*1,280
At downstream limit of Interstate Highway 35/Kansas Turnpike	*1,302
East Tributary to Eight Mile Creek:	
At confluence with Eight Mile Creek	*1,267
Approximately 3,600 feet upstream of confluence with Tributary to East Tributary to Eight Mile Creek	*1,313
Tributary to East Tributary to Eight Mile Creek:	
At confluence with East Tributary to Eight Mile Creek	*1,296
Approximately 3,000 feet upstream of confluence with East Tributary to Eight Mile Creek	*1,307
West Tributary to Eight Mile Creek:	
At confluence with Eight Mile Creek	*1,288
Approximately 6,250 feet upstream of 160th Street	*1,311
Tributary to West Tributary to Eight Mile Creek:	
At confluence with West Tributary to Eight Mile Creek	*1,294
Approximately 1,500 feet upstream of 160th Street	*1,311
Elm Creek (above Augusta Lake):	
Approximately 1,700 feet downstream of 70th Street (County Road 614)	*1,269
Approximately 200 feet downstream of 40th Street (County Road 608)	*1,326
Elm Creek—Tributary A:	
At confluence with Elm Creek	*1,316
Approximately 2,400 feet upstream of confluence with Elm Creek	*1,320
Elm Creek—Tributary B:	
At confluence with Elm Creek	*1,309
Approximately 150 feet upstream of Shumway Road	*1,329
Elm Creek—Tributary C:	
At confluence with Elm Creek Tributary B	*1,312
Approximately 4,800 feet upstream of Shumway Road	*1,340
Four Mile Creek:	
Approximately 12 miles upstream of confluence with Walnut River	*1,263
Approximately 13.5 miles upstream of confluence with Walnut River	*1,270
Approximately 900 feet upstream of 110th Street	*1,289
Four Mile Creek Tributary:	
At confluence with Four Mile Creek	*1,283

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Approximately 3,000 feet upstream of confluence with Four Mile Creek	*1,285
Republican Creek:	
At confluence with Four Mile Creek	*1,262
Approximately 1,000 feet downstream Andover Road	*1,336
Republican Creek Tributary:	
At confluence with Republican Creek	*1,273
Approximately 200 feet upstream of 90th Street	*1,314
North Tributary to Republican Creek:	
Just upstream of Andover Road	*1,343
Approximately 3,000 feet upstream of Andover Road	*1,354
Tributary to Santa Fe Lake:	
At Santa Fe Lake	*1,276
Approximately 100 feet upstream of County Road 612	*1,314
Maps are available for inspection at the Butler County Courthouse, 205 West Central Avenue, Third Floor, El Dorado, Kansas.	
Chanute (City), Neosho County (FEMA Docket No. B–7401)	
Second Street Channel:	
Approximately 440 feet downstream of Katy Road	*917
At Highland Avenue	*924
Approximately 60 feet upstream of Wilson Avenue	*964
Maps are available for inspection at the Engineering Department, Memorial Building, 101 S. Lincoln, Chanute, Kansas.	
El Dorado (City) Butler County (FEMA Docket No. B–7401)	
Constant Creek:	
Approximately 350 feet downstream of Sunset Road	*1,280
Just downstream of Central Avenue	*1,311
Approximately 700 feet upstream of 6th Street	*1,328
Maps are available for inspection at City Hall, 220 East First Street, El Dorado, Kansas.	
LOUISIANA	
Livingston Parish and Incorporated Areas (FEMA Docket No. B–7404)	
Amite River:	
Approximately 1,300 feet downstream of Goodtime Road Extended	*8
At Route 16 and Plantation Road	*8
Just south of Route 16/42 at Colyell Bay	*13
Southwest of Legion Road near Colyell Bay	*13
At Willis Bayou and Route 16	*16
Approximately 1,200 feet downstream of U.S. Highway 190	*44
Just downstream of Illinois Central Gulf Railroad	*47
At the intersection of Cockerham Extended and North Range Avenue	*50
Approximately 2,000 feet northwest of the intersection of Route 16 and Route 63	*86
Beaver Creek:	
Just upstream of Fore Road	None
At confluence with Amite River	*52
Just downstream of Fore Road	*72
West Fork of Beaver Creek:	
At confluence with Beaver Creek	*62
Just upstream of Bob West Road	*70
Clinton Allen Lateral:	
At confluence with Beaver Creek	*53
Just downstream of Louisiana Highway 1024	*66
West Colyell Creek:	
Just upstream of Cave Market Road	*68
Just upstream of Sims Road	*86
Dumplin Creek:	
Approximately 1,500 feet downstream of Aydell Lane	*41
Just upstream of U.S. Highway 190	*43
Approximately 500 feet downstream of Whit Holden Road	*49
Approximately 200 feet upstream of Westcoll Road	*51
East Fork Dumplin Creek:	
At confluence with Dumplin Creek	*43
Approximately 1,000 feet downstream of Meadow Crossing Drive	*48
Approximately 100 feet downstream of Louisiana Highway 1029	*49
Killian Bayou:	
At confluence with Tickfaw River Lower Reach	*8
Approximately 3,300 feet upstream of Louisiana Highway 22	*10
Tickfaw River:	
Approximately 1,400 feet downstream of Lower Reach Cypress Drive Extended	*7
Approximately 5,400 feet upstream from confluence of Butler Bayou	*9
Just upstream of Interstate 12	*37
Just upstream of Horseshoe Road West Extended	*76
Maps for the unincorporated areas of Livingston Parish and the Villages of Killian and Port Vincent are available for inspection at 20161 Iowa Street, Livingston, Louisiana.	
Maps for the City of Denham Springs are available for inspection at 941 Government Street, Denham Springs, Louisiana.	
Maps for the Village of French Settlement are available for inspection at 16015 Highway 16, French Settlement, Louisiana.	
Maps for the Town of Walker are available for inspection at 10136 Florida Boulevard, Walker, Louisiana.	
NORTH DAKOTA	
Nelson County, Unincorporated Areas (FEMA Docket No. 7322)	
Stump Lake:	
Entire shoreline of Stump Lake	*1,450
Maps are available for inspection at Nelson County Sheriff's Office, 210 W. B Avenue, Lakota, North Dakota.	
Towner County, Unincorporated Areas (FEMA Docket No. 7322)	
Mauvais Coulee River:	
Section 8 of Township 157N and Range 66W (Panel 650 A)	*1,450
Section 36 of Township 157N and Range 66W (Panel 800 A)	*1,450
Maps are available for inspection at Sheriff's Office, 315 2nd Street, Cando, North Dakota.	
OKLAHOMA	
Jenks (City), Tulsa County (FEMA Docket No. B–7407)	
Wilmott Creek:	
Northwest of intersection of 101st Street and Sunbelt Railway	*612
Approximately 100 feet downstream of 91st Street	*613
Maps are available for inspection at City Hall, 211 North Elm Street, Jenks, Oklahoma.	
SOUTH DAKOTA	
North Sioux (City), Union County (FEMA Docket No. 7310)	
Big Sioux River:	
Approximately 5,900 feet downstream from Military Road	*1,101
Approximately 7,425 feet upstream from the Chicago Milwaukee St. Paul and Pacific Railroad	*1,108
Big Sioux River Split at Interstate 29:	
Approximately 50 feet downstream from Westshore Drive	*1,109
At divergence from Big Sioux River	*1,110

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Maps are available for inspection at City Hall, 301 Military Road, North Sioux City, South Dakota.	
Union County (Unincorporated Areas) (FEMA Docket No. 7310)	
Big Sioux River:	
At mouth of Big Sioux River	*1,090
At Interstate 29	*1,094
At State Route 48	*1,143
Big Sioux River Split at Interstate 29:	
Approximately 1,800 feet downstream of Westshore Drive	*1,108
At divergence from Big Sioux River	*1,110
Maps are available for inspection at Union County Planning and Zoning Office, 209 East Main, Elk Point, South Dakota.	
WASHINGTON	
Clallam County (Unincorporated Areas) (FEMA Docket No. 7278)	
Elwha River:	
Approximately 3,250 feet above mouth	*14
Approximately 3,800 feet above mouth	*16
Approximately 5,500 feet above mouth	*24
Approximately 8,000 feet above mouth	*35
Maps are available for inspection at the Clallam County Planning Department, 223 East Fourth Street, Port Angeles, Washington.	
College Place (City), Walla Walla County (FEMA Docket No. B-7404)	
Garrison Creek:	
Approximately 3,300 feet upstream of Mission Road	*703
Approximately 6,400 feet upstream of Mission Road	*723
Maps are available for inspection at City Hall, 625 South College Avenue, College Place, Washington.	
Lower Elwha Indian Reservation, Clallam County (FEMA Docket No. 7278)	
Elwha River:	
Approximately 650 feet above mouth	*7
Approximately 7,550 feet above mouth	*34
Maps are available for inspection at the Tribal Center, 2851 Lower Elwha Road, Port Angeles, Washington.	
Washtucna (Town), Adams County (FEMA Docket No. B–7404)	
Washtucna Coulee:	
Approximately 2,700 feet downstream of Cooper Street	+1,002
Just downstream of Canal Street	+1,023
At confluence with Staley Coulee	+1,023
Approximately 800 feet upstream of the confluence with Staley	+1,025
Staley Coulee:	
Just upstream of Canal Street	+1,023
Approximately 800 feet upstream of North Street	+1,032
Maps are available for inspection at the Washtucna Town Hall, 165 Southeast Main Street, Washtucna, Washington.	
WYOMING	
Sheridan (City), Sheridan County (FEMA Docket No. 7318)	
Big Goose Creek:	
Approximately 1.66 miles upstream of Works Street	*3,768
Approximately 4 miles upstream of Works Street	*3,800
Little Goose Creek:	
Approximately 1,250 feet downstream of Brundage Lane	*3,782
Just upstream of County Road 66	*3,836
Maps are available for inspection at the City of Sheridan Planning Department, 55 East Grinnell Avenue, Sheridan, Wyoming.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: June 18, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance Administration and Mitigation.

[FR Doc. 01–15928 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 70

RIN 3067–AD19

National Flood Insurance Program (NFIP); Clarification of Letter of Map Amendment Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: We, FEMA, are amending our procedures for issuing Letters of Map Amendment (also referred to as LOMAs) to add a possible outcome to those already described in our rules. When a property is outside a designated Special Flood Hazard Area (SFHA) as shown on the NFIP map we will issue a LOMA but will not modify the Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM).

EFFECTIVE DATE: July 26, 2001.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Federal Insurance Administration, Federal Emergency Management Agency at (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION:

Background

Congress created the NFIP in 1968 to provide federally supported flood insurance coverage, which generally had not been available through private insurance companies. The program is based on an agreement between the Federal Government and each flood-prone community that chooses to participate in the program. FEMA makes flood insurance available to property owners within a community provided that the community adopts and enforces floodplain management regulations that meet or exceed the minimum requirements of the NFIP set forth in Title 44, Chapter I, Part 60 of the NFIP Floodplain Management Regulations (44 CFR Part 60).

Mandatory Purchase of Insurance

The Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, mandates the purchase of flood insurance on structures located in identified SFHAs as a condition of Federal or federally-related financial assistance for acquisition or construction of structures in SFHAs of any community. The Acts prohibit Federal agency lenders, such as the Small Business Administration, United States Department of Agriculture's Rural Housing Service, and Government-Sponsored Enterprises for Housing (Freddie Mac and Fannie Mae) from making, increasing, guaranteeing, or purchasing a loan secured by improved real estate or mobile home(s) in an SFHA, unless flood insurance has been purchased and maintained on the property during the term of the loan. The Acts also prohibit federally-regulated lenders from making, increasing, extending, or renewing any loan secured by improved real estate located in the SFHA in a participating community unless the secured property and any personal property securing the loan is covered by flood insurance. The prohibition of financial assistance also applies to non-participating communities.

Need for Clarification of Determinations

Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) requires the Director of FEMA to

identify and map floodplains and to identify flood risk zones, and also makes provision for revising and updating floodplains and flood-risk zones and requiring public notification of flood map changes. The requirements for amending the FIRMs are in 44 CFR part 70, Procedure for Map Correction.

We amend or revise NFIP flood maps for a number of reasons, such as the availability of improved techniques for assessing the flood risk, changes in the physical condition of the floodplain or watershed, or as additional data become available to improve the identification of flood hazards. The criteria for determining whether to remove unimproved land or land with structures from the SFHA because ground elevations of the land or structures are above the BFE are in sections (§§) 70.3 and 70.4. If the criteria are met, we will issue a LOMA.

When requesting a LOMA, property owners must submit adequate supporting data according to the criteria established in §§ 70.3 and 70.4, such as a legal description of the property, location of the insurable structure on the property, and information regarding the lowest adjacent grade (LAG) elevation. However, if the structure in question, when plotted on the NFIP map, does not touch the mapped SFHA, we do not require the LAG elevation as part of the data that support the request.

Under § 70.4, after we review the scientific or technical information that the LOMA applicant submitted, we notify the applicant that we have compared the ground elevations of the entire legally defined parcel of land or the elevation of the lowest adjacent grade to a structure with the elevation of the base flood and that:

(a) The property is within a designated flood-risk zone and we state the basis for our determination; or

(b) The property should not be included within a designated flood-risk zone and we will amend the FHBM or the FIRM; or

(c) We need an additional 60 days to make a determination.

There is an alternative outcome that we sometimes encounter during the LOMA review process that part 70 does not describe. After plotting the property location on the NFIP map, a property or structure may fall outside the delineated SFHA. When this happens, the LOMA states that the property or structure is ''out as shown'' and there is no need to take action to correct the map because the map already indicates that the property or structure falls outside the SFHA.

There has been considerable confusion over the determination made in some LOMAs that state a property or structure is ''out as shown'' on the effective NFIP map. Specifically, when a third party determination company has made a determination for a lender that a structure is in the SFHA and the borrower requests a LOMA from FEMA that results in a determination that the structure is already mapped outside the SFHA, lenders are requesting that the third party change its finding to agree with FEMA's. Without comparing the data used by the determination company to the data used by FEMA comparing the property and structure, a conclusion is unsure. If this conflict arises during the loan origination process, there is an established process for resolving disputes under part 65.17: ''Review of Determinations.'' We are amending this rule to clarify the status of LOMAs that make a determination of ''out as shown.''

By this rule, we are adding an additional possible outcome to those described in § 70.4: The property is not within a designated SFHA as shown on the NFIP map and no modification of the Flood Hazard Boundary Map or FIRM is necessary.

Administrative Procedure Act Statement

Under the National Flood Insurance Program FEMA must identify floodprone areas throughout the United States and revise and update flood maps when sufficient technical data justify a request for map amendment or map revision (42 U.S.C. 4101). If an insurable property is located within an identified SFHA, the property owner must obtain flood insurance under specified conditions (42 U.S.C. 4012a). It follows that if an insurable property is located outside an SFHA the mandatory flood insurance purchase requirements of the Flood Disaster Protection Act of 1973 do not apply (although the owner may purchase flood insurance voluntarily).

This rule is an ''interpretative'' rule under the Administrative Procedure Act (5 U.S.C. 553(b)(A)). The rule interprets the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 to clarify that when we find sufficient technical data and determine that a property or structure is ''out as shown'' on an existing FHBM or FIRM, that is, when the property is located outside an SFHA as shown on the map, we will issue a Letter of Map Amendment but will not modify the FHBM or FIRM.

Accordingly, we have determined that this rule is not subject to the requirements of 5 U.S.C. 553(b), and we are making the rule effective upon publication under the authority of 5 U.S.C. 553(d)(2). The Office of Management and Budget, Office of Information and Regulatory Affairs, has reviewed this rule.

National Environmental Policy Act (NEPA)

NEPA imposes requirements for considering the environmental impacts of agency decisions. It requires that an agency prepare an Environmental Impact Statement (EIS) for ''major federal actions significantly affecting the quality of the human environment.'' If an action may or may not have a significant impact, the agency must prepare an environmental assessment (EA). If, as a result of this study, the agency makes a Finding of No Significant Impact (FONSI), no further action is necessary. If it will have a significant effect, then the agency uses the EA to develop an EIS.

Categorical Exclusions

Agencies can categorically identify actions (for example, repair of a building damaged by a disaster) that do not normally have a significant impact on the environment. The purpose of this interpretive rule is to clarify and state expressly in our rules that when we determine that a property or structure is ''out as shown'' on an existing FHBM or FIRM, we will issue a Letter of Map Amendment but will not modify the FHBM or FIRM.

Accordingly, we have determined that this rule is excluded from the preparation of an environmental assessment or environmental impact statement under 44 CFR 10.8(d)(2)(ii), where the rule is related to actions that qualify for categorical exclusion under 44 CFR 10.8(d)(2)(iv).

Paperwork Reduction Act

This rule requires the collection of information. Under the Paperwork Reduction Act (Act) we must consider the impact of paperwork and other information collection burdens imposed on the public. The Act mandates specific reductions in the amount of paperwork requirements imposed by agencies. It requires specific approval by the Office of Management and Budget (OMB) of any new requirements for collection of information imposed on ten or more persons by an agency; without such approval, the agency lacks the authority to enforce any such requirement. The Act also requires us to inform respondents that a response is not required unless the collection of information displays a valid OMB control number.

OMB has previously approved the following information collection

requirements covered by this final rule under the provisions of the Paperwork Reduction Act, as amended:

OMB Control Number	Title
3067–0147, Expires 8/31/2001	Report to Submit Technical or Scientific Data to Correct Mapping Deficiencies Unrelated to Community-Wide Elevation Determinations (Amendments & Revisions to National Flood Insurance Program Map)
3067–0148, Expires 7/31/2001	Consultation with Local Officials to Assure Compliance with Sections 110 and 206 of the Flood Disaster Protection Act of 1973 (Revisions to National Flood Insurance Program Maps) 81–89/81/89A 81–89B/81–89C 81/89D/81/89E 81–89F/81–89G 81–89H/81–89I 81–89J/81–89K
3067–0257, Expires 7/31/2001	Report to Submit Technical Data to Correct Mapping Deficiencies Unrelated to Community-Wide Elevation Determinations for a Single Residential Lot or Structure. FEMA–FORM–81–92.

We will be applying to the Office of Management and Budget to extend our authorizations under Control Number 3067–0147, 3067–0148, and 3067–0257. Any person who is to respond to this collection of information is not required to respond unless the collection of information displays a currently valid OMB control number.

Executive Order 12866, Regulatory Planning and Review

We have prepared and reviewed this rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule is an ''interpretative'' rule under the Administrative Procedure Act (5 U.S.C. 553(b)(A)). The rule interprets the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 to clarify that when we find sufficient technical data and determine that a property or structure is ''out as shown'' on an existing FHBM or FIRM, that is, when the property is located outside an SFHA as shown on the map, we will issue a Letter of Map Amendment and that does not modify the FHBM or FIRM. We know of no conditions that would qualify the rule as a ''significant regulatory action'' within the definition of section 3(f) of the Executive Order.

Accordingly, this rule is not a major rule as defined in 5 U.S.C. 804(2). To the extent possible this rule adheres to the principles of regulation as set forth in Executive Order 12866. The Office of Management and Budget (OMB) has not reviewed this rule under Executive Order 12866.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this final rule under Executive Order 13132 and have concluded that the rule does not have federalism implications as defined by the Executive Order. The rule interprets the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 to clarify that when we find sufficient technical data and determine that a property or structure is ''out as shown'' on an existing FHBM or FIRM, that is, when the property is located outside an SFHA as shown on the map, we will issue a Letter of Map Amendment and that does not modify the FHBM or FIRM.

We have determined that the rule does not significantly affect the rights, roles, and responsibilities of States, and involves no preemption of State law nor does it limit State policymaking discretion. Accordingly, the provisions of Executive Order 13132, Federalism, do not apply to this rule. The Office of Management and Budget has reviewed this rule under the provisions of Executive Order 13132.

This rule involves no policies that have federalism implications under Executive Order 13132, Federalism, dated .

Congressional Review of Agency Rulemaking

We have sent this final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Pub. L. 104–121. The rule is not a ''major rule'' within the meaning of that Act. It is an interpretive rule in support of normal day-to-day mapping activities related to Letters of Map Amendment under the National Flood Insurance Program.

The rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have ''significant adverse effects'' on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises. This final rule is subject to the information collection requirements of the Paperwork Reduction Act and OMB has assigned Control Nos. 3067–0147, 3067–0148, and 3067–0257. The rule is not an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, and any enforceable duties that we impose are a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

List of Subjects in 44 CFR Part 70

Administrative practice and procedure, Reporting and recordkeeping requirements.

Accordingly, we amend 44 CFR 70 as follows:

PART 70—PROCEDURE FOR MAP CORRECTION

1. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. We revise § 70.4 to read as follows:

§ 70.4 Review by the Director.

The Director, after reviewing the scientific or technical information submitted under the provisions of § 70.3, shall notify the applicant in writing of his/her determination within 60 days after we receive the applicant's scientific or technical information that we have compared either the ground elevations of an entire legally defined parcel of land or the elevation of the lowest adjacent grade to a structure with the elevation of the base flood and that:

(a) The property is within a designated A, A0, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, V0, V1–30, VE, or V Zone, and will state the basis of such determination; or

(b) The property should not be within a designated A, A0, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A,V0, V1–30, VE, or V Zone and that we will modify the FHBM or FIRM accordingly; or

(c) The property is not within a designated A, A0, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A,V0, V1–30, VE, or V Zone as shown on the FHBM or FIRM and no modification of the FHBM or FIRM is necessary; or

(d) We need an additional 60 days to make a determination.

* * * * *

Robert F. Shea,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 01–15807 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AD08

Disaster Assistance; Debris Removal

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: We (FEMA) are adding to the conditions under which we may determine that debris removal is in the public interest following a declared disaster. We may provide funding for the removal of debris and wreckage from publicly and privately owned lands and waters when communities convert property acquired through a FEMA program for hazard mitigation purposes to uses compatible with open space, recreational, or wetlands management practices.

EFFECTIVE DATE: This rule is effective July 26, 2001.

FOR FURTHER INFORMATION CONTACT: Melissa M. Howard, Ph.D., Federal Emergency Management Agency, room 713, 500 C Street SW., Washington DC 20472, (202) 646–4240, or (email) *melissa.howard@fema.gov.*

SUPPLEMENTARY INFORMATION: We consider that it is in the public interest to remove substantially damaged structures and related slabs, driveways, fencing, garages, sheds, and similar appurtenances from properties that are part of a FEMA-funded hazard mitigation buyout and relocation project. On May 16, 2000, we published a proposed rule on debris removal in the **Federal Register**, 65 FR 31129, and invited comments for 60 days ending on July 15, 2000. We received comments from three sources representing a federal agency, a State government, and a national association.

The proposed rule stated that we would consider in the public interest the removal of substantially damaged structures that a community acquired through a FEMA-funded hazard mitigation project. The removal of such structures would help to mitigate the risk to life and property by converting the property to uses that are compatible with open space, recreational and wetlands management practices. We believe that Federal assistance used in this way supports the effort to break the cycle of repetitive damage and repair; such removal is less costly to taxpayers than paying for repetitive damage and repair. Mitigation through buyout and relocation also substantially reduces the risk of future infrastructure damage and personal hardship, loss and suffering.

Comment. One commenter asked whether it is in the public interest to remove substantially damaged structures and related appurtenances during a partial buyout. In these cases, the commenter said, a FEMA-funded mitigation program may acquire one property, but not an adjacent property.

Response. We believe that debris removal from the acquired property is in the public interest because that property will not be built upon in the future. This type of removal contributes to the goal of reducing long-term vulnerability. In the case of an adjacent property, if that property is not substantially damaged, it could be removed under section 404 of the Stafford Act, but it could not be removed under section 407 since it would not be debris or wreckage.

Comment. Another commenter stated that debris and wreckage removal was just one element of demolition and suggested that we also fund the razing of these structures.

Response. We intend to remove only those structures that may be classed as debris and wreckage. Razing the structure in such cases should not be necessary. However, if a structure and its appurtenances meet the criteria in this rule, that is, that the property is substantially damaged and acquired through a FEMA-funded hazard mitigation program, we will fund its removal and will include razing and disposal as applicable.

Comment. A related comment asked that we fund the removal of all damaged structures acquired through a FEMA-funded mitigation program, not just those that are substantially damaged. Section 407 of the Stafford Act allows for the removal of debris and wreckage.

Response. We do not consider structures to be debris and wreckage if they are not substantially damaged. If we were to fund their removal, we would have to do so under the authority of section 404 of the Stafford Act. In order to lessen the administrative burden of funding on a structure-by-structure basis in areas where some structures are substantially damaged and others are not, we will fund debris and wreckage removal on a prorated basis. For example, if 60 percent of structures are substantially damaged, we will reimburse 60 percent of the costs for removing all structures acquired through a FEMA-funded mitigation program.

Comment. A final comment raised the issue of timelines for completion of debris removal. The commenter thought that assisting in the buyout process would prevent the Public Assistance Program from reaching disaster closeout objectives. The commenter suggested that we limit funding to 12 months after the declaration.

Response. We understand the point of the commenter and agree that the use of the authority must be time-limited. Because we find a one-year deadline to be impractical, we have established a two-year deadline, which we do find reasonable. Therefore, we will allow two years from the declaration date to obligate funds and complete the removal of substantially damaged structures.

National Environmental Policy Act

This rule is excluded from the preparation of an environmental assessment or environmental impact statement under 44 CFR 10.8(d)(2)(ii), where the rule is related to actions that qualify for categorical exclusion under 44 CFR 10.8(d)(2)(vii).

Executive Order 12866, Regulatory Planning and Review

We have prepared and reviewed this final rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rule adds a category of property eligible to receive public assistance following a declared disaster, and will benefit those small entities that qualify for this assistance. We know of no conditions that would qualify the rule as a ''significant regulatory action'' within the definition of section 3(f) of the Executive Order. To the extent possible this rule adheres to the principles of regulation in Executive Order 12866. The Office of Management and Budget has not reviewed this rule under the provisions of Executive Order 12866.

Paperwork Reduction Act

This rule does not require a collection of information and therefore is not subject to the provisions of the Paperwork Reduction Act of 1995.

Regulatory Flexibility Act, 5 U.S.C. 601

Under the Regulatory Flexibility Act agencies must consider the impact of their rulemakings on ''small entities'' (small businesses, small organizations and local governments). When an agency is required by 5 U.S.C. 553 to publish a notice of proposed rulemaking, a regulatory flexibility analysis is required for both the proposed rule and the final rule if the rulemaking could ''have a significant economic impact on a substantial number of small entities.'' The Act also provides that if a regulatory flexibility analysis is not required, the agency must certify in the rulemaking document that the rulemaking will not ''have a significant economic impact on a substantial number of small entities.''

For the reasons that follow I certify that a regulatory flexibility analysis is not required for this rule because it would not have a significant economic impact on a substantial number of small entities. This rule adds a new condition under which we may determine debris removal is in the public interest following a declared disaster. We expect the rule will benefit those small entities that qualify for this assistance and will enhance the ability of local officials to make sound floodplain management decisions more readily than under the current rule.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this rule under Executive Order 13132 and have concluded that the rule does not have federalism implications as defined by the Executive Order. As noted under Regulatory Planning and Review, this rule adds a new condition under which we may determine debris removal is in the public interest following a declared disaster. We know of no substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government that would result from this rule.

The Office of Management and Budget has reviewed this rule under the provisions of Executive Order 13132.

Congressional Review of Agency Rulemaking

We have sent this rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Pub. L. 104–121. The rule is not a ''major rule'' within the meaning of that Act. By adding a new condition under which we may determine debris removal is in the public interest following a declared disaster it will not result in an annual effect on the economy of $100,000,000 or more. We do not expect that it will result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor do we expect that it will have ''significant adverse effects'' on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

List of Subjects in 44 CFR Part 206

Disaster assistance.

Accordingly, amend 44 CFR part 206 as follows:

PART 206—FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988

1. The authority citation for part 206 continues to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Revise § 206.224(a) to read as follows:

§ 206.224 Debris removal.

(a) *Public interest.* Upon determination that debris removal is in the public interest, the Regional Director may provide assistance for the removal of debris and wreckage from publicly and privately owned lands and waters. Such removal is in the public interest when it is necessary to:

(1) Eliminate immediate threats to life, public health, and safety; or

(2) Eliminate immediate threats of significant damage to improved public or private property; or

(3) Ensure economic recovery of the affected community to the benefit of the community-at-large; or

(4) Mitigate the risk to life and property by removing substantially damaged structures and associated appurtenances as needed to convert property acquired through a FEMA hazard mitigation program to uses compatible with open space, recreation, or wetlands management practices. Such removal must be completed within two years of the declaration date, unless the Associate Director for Readiness,

Response and Recovery extends this period.

* * * * *

Dated: June 19, 2001.

Lacy Suiter,

Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–15924 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1389; MM Docket No. 00–12; RM–9706]

Radio Broadcasting Services; West Rutland, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Great Casco Bay Wireless Talking Machine Limited Liability Company, this document substitutes Channel 298A for Channel 298C3 at West Rutland, Vermont, in order to permit Station WTHT, Lewiston, Maine, to improve its facilities. *See* 65 FR 7518, published February 16, 2000. The reference coordinates for Channel 298A at West Rutland, Vermont, are 43–34–04 and 73–00–30.

DATES: Effective July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* in MM Docket No. 00–12, adopted June 6, 2001, and released June 8, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 298C3 at West Rutland and adding Channel 298A at West Rutland.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–15973 Filed 6–25–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1438; MM Docket No. 00–160; RM–9928]

Radio Broadcasting Services; Pana, Taylorville, and Macon, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the joint request of Kaskaskia Broadcasting, Inc. and Miller Communications, Inc., reallots Channel 265A from Pana to Macon, Illinois, and modifies Station WEGY(FM)'s license accordingly. We also reallot Channel 232A from Taylorville to Pana, Illinois, and modify Station WMKR(FM)'s license accordingly. *See* 65 FR 55930, September 15, 2000. Channel 265A can be reallotted to Macon in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.9 kilometers (4.3 miles) south at Station WEGY(FM)'s requested site. The coordinates for Channel 265A at Macon are 39–41–08 North Latitude and 88–55–29 West Longitude. Additionally, Channel 232A can be reallotted to Pana in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.7 kilometers (7.3 miles) west at Station WMKR(FM)'s requested site. The coordinates for Channel 232A at Pana are 39–22–56 North Latitude and 89–12–56 West Longitude.

DATES: Effective July 30, 2001.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–160, adopted June 6, 2001, released June 15, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 54, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Macon, Channel 265A; and removing Channel 265A at Pana; and by adding Channel 232A at Pana; and removing Channel 232A at Taylorville.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–15975 Filed 6–25–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1390; MM Docket No. 01–6; RM–10009]

Radio Broadcasting Services; Steubenville, OH and Burgettstown, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 278B from Steubenville, Ohio, to Burgettstown, Pennsylvania, and modifies the license for Station WOGH(FM) to specify operation on Channel 278B at Burgettstown, Pennsylvania, in response to a petition filed by Keymarket Licenses, LLC. *See* 66 FR 7872, January 26, 2001. The coordinates for Channel 278B at Burgettstown are 40–20–32 and 80–37–14.

DATES: Effective July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–6, adopted May 30, 2001, and released June 8, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by removing Steubenville, Channel 278B.

3. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by adding Burgettstown, Channel 278B.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–15977 Filed 6–25–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH46

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Whooping Cranes in the Eastern United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), will reintroduce whooping cranes (*Grus americana*) into historic habitat in the eastern United States with the intent to establish a migratory flock that would summer and breed in Wisconsin, and winter in west-central Florida. We are designating this reintroduced population as a nonessential experimental population (NEP) according to section 10(j) of the Endangered Species Act of 1973 (Act), as amended. The geographic boundary of the NEP includes the States of Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

The objectives of the reintroduction are: To advance recovery of the endangered whooping crane; to further assess the suitability of Wisconsin and west-central Florida as whooping crane habitat; and to evaluate the merit of releasing captive-reared whooping cranes, conditioned for wild release, as a technique for establishing a self-sustaining, migratory population. The only natural wild population of whooping cranes remains vulnerable to extirpation through a natural catastrophe or contaminant spill, due primarily to its limited wintering distribution along the Texas gulf coast. If successful, this action will result in the establishment of an additional self-sustaining population, and contribute towards the recovery of the species. No conflicts are envisioned between the whooping crane's reintroduction and any existing or anticipated Federal, State, Tribal, local government, or private actions such as agricultural practices, pesticide application, water management, construction, recreation, trapping, or hunting.

DATES: The effective date of this rule is June 26, 2001.

ADDRESSES: The complete administrative file for this rule is available for inspection, by appointment, during normal business hours at the Green Bay Field Office, U.S. Fish and Wildlife Service, 1015 Challenger Court, Green Bay, Wisconsin 54311.

FOR FURTHER INFORMATION CONTACT: Janet M. Smith at the above address (telephone 920–465–7440).

SUPPLEMENTARY INFORMATION:

Background

1. Legislative

Congress made significant changes to the Endangered Species Act of 1973, as amended (Act), with the addition of section 10(j), which provides for the designation of specific reintroduced populations of listed species as ''experimental populations.'' Previously, we had authority to reintroduce populations into unoccupied portions of a listed species' historical range when doing so would foster the recovery of the species. However, local citizens often opposed these reintroductions because they were concerned about the placement of restrictions and prohibitions on Federal and private activities. Under section 10(j), the Secretary of the Interior can designate reintroduced populations established outside the species' current range, but within its historical range, as ''experimental.''

Under the Act, species listed as endangered or threatened are afforded protection primarily through the prohibitions of section 9 and the requirements of section 7. Section 9 of the Act prohibits the take of a listed species. ''Take'' is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitats. It mandates all Federal agencies to determine how to use their existing authorities to further the purposes of the Act to aid in recovering listed species. It also states that Federal agencies will, in consultation with the Service, insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private lands unless they are authorized, funded, or carried out by a Federal agency.

Section 10(j) is designed to increase our flexibility in managing an experimental population by allowing us to treat the population as threatened, regardless of the species' designation elsewhere in its range. Threatened designation gives us more discretion in developing and implementing management programs and special regulations for a population, such as this rule, and allows us to develop any regulations we consider necessary to provide for the conservation of a threatened species. In situations where we have experimental populations, certain section 9 prohibitions that apply to threatened species may no longer apply, and the special rules contain the prohibitions and exceptions necessary

and appropriate to conserve that species.

Based on the best available information, we must determine whether experimental populations are ''essential,'' or ''nonessential,'' to the continued existence of the species. An experimental population that is essential to the survival of the species is treated as a threatened species. An experimental population that is nonessential to the survival of the species is also treated as a threatened species. However, for section 7 interagency cooperation purposes, if the NEP is located outside of a National Wildlife Refuge or National Park, it is treated as a species proposed for listing. Regulations for NEPs may be developed to be more compatible with routine human activities in the reintroduction area.

For the purposes of section 7 of the Act, in situations where there is an NEP located within a National Wildlife Refuge or National Park, the individuals of the NEP are treated as threatened and section 7(a)(1) and the consultation requirements of section 7(a)(2) of the Act would apply. Section 7(a)(1) requires all Federal agencies to use their authorities to conserve listed species. Section 7(a)(2) requires that Federal agencies consult with the Service before authorizing, funding, or carrying out any activity that would likely jeopardize the continued existence of a listed species or adversely modify its critical habitat. When NEPs are located outside a National Wildlife Refuge or National Park, only two provisions of section 7 would apply: Section 7(a)(1) and section 7(a)(4). Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(4) requires Federal agencies to informally confer with the Service on actions that are likely to jeopardize the continued existence of a species proposed for listing. However, since we determined that the NEP is not essential to the continued existence of the species, it is very unlikely that we would ever determine jeopardy for a project impacting a species within an NEP.

Individuals used to establish an experimental population may come from a donor population, provided their removal is not likely to jeopardize the continued existence of the species, and appropriate permits are issued in accordance with our regulations (50 CFR 17.22) prior to their removal.

2. Biological

The whooping crane (*Grus americana*) was listed as an endangered species on March 11, 1967 (32 FR 4001). The whooping crane is classified in the family Gruidae, Order Gruiformes. It is the tallest bird in North America; males approach 1.5 meters (m) (5 feet (ft)) tall. In captivity, adult males average 7.3 kilograms (kg) (16 pounds (lb)) and females 6.4 kg (14 lbs). Adult plumage is snowy white except for black primary feathers, black or grayish alulae, sparse black bristly feathers on the carmine (red) crown and malar region (side of the head), and a dark gray-black wedge-shaped patch on the nape. The bill is dark olive-gray, which becomes lighter during the breeding season. The iris of the eye is yellow; legs and feet are gray-black.

Adults are potentially long-lived. Current estimates suggest a maximum longevity in the wild of 22 to 24 years (Binkley and Miller 1980). Captive individuals are known to have survived 27 to 40 years (McNulty 1966, Moody 1931). Mating is characterized by monogamous lifelong pair bonds. Individuals re-mate following death of their mate. Fertile eggs are occasionally produced at age 3 years but more typically at age 4. Experienced pairs may not breed every year, especially when habitat conditions are poor. Whooping cranes ordinarily lay two eggs. They will renest if their first clutch is destroyed or lost before mid-incubation (Erickson and Derrickson 1981, Kuyt 1981). Although two eggs are laid, whooping crane pairs infrequently fledge two chicks. Only about one of every four hatched chicks survives to reach the wintering grounds (U.S. Fish and Wildlife Service 1986)

The whooping crane first appeared in fossil records from the early Pleistocene (Allen 1952) and probably was most abundant during that 2-million-year epoch. They once occurred from the Arctic Sea to the high plateau of central Mexico, and from Utah east to New Jersey, South Carolina, and Florida (Allen 1952, Nesbitt 1982). In the 19th century, the principal breeding range extended from central Illinois northwest through northern Iowa, western Minnesota, northeastern North Dakota, southern Manitoba, and Saskatchewan to the vicinity of Edmonton, Alberta. A nonmigratory breeding population existed in southwestern Louisiana until the early 1900's (Allen 1952, Gomez 1992).

Through the use of two independent techniques of population estimation, Banks (1978) derived estimates of 500 to 700 whooping cranes in 1870. By 1941, the migratory population contained only 16 individuals. The whooping crane population decline in the 19th and early 20th century was a consequence of hunting and specimen collection, human disturbance, and conversion of the primary nesting habitat to hay, pastureland, and grain production (Allen 1952, Erickson and Derrickson 1981).

Allen (1952) described several historical migration routes. One of the most important led from the principal nesting grounds in Iowa, Illinois, Minnesota, North Dakota, and Manitoba to coastal Louisiana. Another went from Texas and the Rio Grande Delta region of Mexico northward to nesting grounds in North Dakota and the Canadian Provinces. A route through west Texas into Mexico probably followed the route still used by sandhill cranes (*Grus canadensis*). These whooping cranes would have wintered in the interior tablelands of western Texas and the high plateau of central Mexico.

Another migration route crossed the Appalachians to the Atlantic Coast. These birds apparently nested in the Hudson Bay area of Canada. Coastal areas of New Jersey, South Carolina, and river deltas farther south were the wintering grounds. The latest specimen records or sighting reports for some eastern locations are Alabama, 1899; Arkansas, 1889; Florida, 1927 or 1928; Georgia, 1885; Illinois, 1891; Indiana, 1881; Kentucky, 1886; Manitoba, 1948; Michigan, 1882; Minnesota, 1917; Mississippi, 1902; Missouri, 1884; New Jersey, 1857; Ohio, 1902; Ontario, 1895; South Carolina, 1850; and Wisconsin, 1878 (Allen 1952, Burleigh 1944, Hallman 1965, Sprunt and Chamberlain 1949).

Atlantic coast locations used by whooping cranes included the Cape May area and Beesley's Point at Great Egg Bay in New Jersey; the Waccamaw River in South Carolina; the deltas of the Savannah and Altamaha Rivers, and St. Simon's Island in Georgia; and the St. Augustine area of Florida. Gulf coast locations include Mobile Bay, Alabama; Bay St. Louis in Mississippi; and numerous records from southwestern Louisiana, where the last bird was captured in 1949. Coastal Louisiana contained both a nonmigratory flock and wintering migrants (Allen 1952, Gomez 1992).

There is evidence to suggest that whooping cranes occurred in Florida, perhaps well into the 20th century (Nesbitt 1982). Nesbitt described various sighting reports including one by O. E. Baynard, a respected field naturalist, who stated that the last flock of whooping cranes (14 birds) he saw in Florida was in 1911 near Micanopy, southern Alachua County. Two whooping cranes were reported east of the Kissimmee River on January 19, 1936, and a whooping crane was shot (and photographed) north of St.

Augustine, St. Johns County, in 1927 or 1928 (Nesbitt 1982).

Records from more interior areas of the Southeast include the Montgomery, Alabama, area; Crocketts Bluff on the White River, and near Corning in Arkansas; in Missouri at sites in Jackson County near Kansas City, in Lawrence County near Corning, southwest of Springfield in Audrain County, and near St Louis; and in Kentucky near Louisville and Hickman. It is unknown whether these records represent wintering locations, remnants of a nonmigratory population, or wandering birds.

The historic breeding range of the whooping crane in the United States included Illinois, Iowa, North Dakota, and Minnesota, with the largest number of confirmed nesting records in Iowa (Allen 1952). There are at least five reliable reports from Wisconsin; although there are no confirmed records of nesting in Wisconsin, there is a nesting record from Dubuque County, Iowa (Allen 1952), which is adjacent to Grant County, Wisconsin.

Whooping cranes currently exist in three wild populations and at six captive locations. The only self-sustaining natural wild population nests in the Northwest Territories and adjacent areas of Alberta, Canada, primarily within the boundaries of Wood Buffalo National Park. These birds winter along the central Texas Gulf of Mexico coast at Aransas National Wildlife Refuge and adjacent areas. Fifty pairs from this population nested in 2000, and 176 adult whooping cranes were reported in spring 2001. The flock recovered from a population low of 15 or 16 birds in 1941. This population is hereafter referred to as the Aransas/Wood Buffalo National Park population (AWP).

The second largest wild population is found in the Kissimmee Prairie area of central Florida. We designated this population as an experimental nonessential population in January 1993 (58 FR 5647–5658). Since 1993, 228 isolation-reared whooping cranes have been released in this area, in an ongoing reintroduction effort to establish a nonmigratory flock. As of February 2001, there are 86 surviving individuals in the project area. Birds in this population have reached breeding age within the past several years. During the 2000 nesting season, a total of 15 pairs defended territories, 3 pairs laid eggs, and 2 of these pairs failed prior to hatching. The remaining pair hatched both eggs, but no chicks survived to fledging.

The third wild flock consists of two remaining individuals from an effort to establish a migratory population in the Rocky Mountains through cross-fostering with greater sandhill cranes (*Grus canadensis tabida*) (Drewien and Bizeau 1977, Bizeau *et al.* 1987), and an experiment in 1997 when four whooping cranes were led behind an ultralight aircraft between Idaho and New Mexico (Clegg *et al.* 1997). The cross-fostering project began in 1975 and has failed to produce any chicks or mated pairs (Ellis *et al.* 1992a). The term, ''cross-fostering'' refers to the foster rearing of the whooping crane chicks by another species, the sandhill crane. The cross-fostered whooping cranes have never bred with other whooping cranes. The females in that group may be improperly sexually imprinted on male sandhill cranes. As a consequence of the lack of breeding, and the inordinately high mortality experienced by this population, the project was phased out.

The whooping crane captive breeding program, initiated in 1967, has been very successful. The Service and the Canadian Wildlife Service (CWS) began taking eggs from the nests of the wild population in 1967, and raising the resulting young in captivity. Between 1967 and 1993, 181 eggs were taken from the wild to captive sites. Birds raised from those eggs form the nucleus of the captive flock (USFWS 1994). The captive population is now located at three primary locations: Patuxent Wildlife Research Center in Laurel, Maryland; the International Crane Foundation (ICF) in Baraboo, Wisconsin; and the Calgary Zoo in Alberta, Canada. An additional captive population was started in 1998 at the Audubon Species Survival Center in New Orleans, Louisiana.

The total captive population as of February 2001 stood at 120 birds, with 109 birds present in the 3 primary captive breeding centers, and an additional 11 birds present at 3 other locations. Six whooping cranes are located at the San Antonio Zoological Gardens, Texas; four at the Audubon Institute, New Orleans, Louisiana; and one at the Lowery Park Zoo in Tampa, Florida.

Whooping cranes adhere to ancestral breeding areas, migratory routes, and wintering grounds, leaving little possibility of pioneering into new regions. The only wild, self-sustaining breeding population can be expected to continue utilizing its current nesting location with little likelihood of expansion, except on a local geographic scale. This population remains vulnerable to destruction through a natural catastrophe (hurricane), a red tide outbreak, or a contaminant spill, due primarily to its limited wintering distribution along the intracoastal waterway of the Texas coast. The Gulf Intracoastal Water Way (GIWW) experiences some of the heaviest barge traffic of any waterway in the world. Much of the shipping tonnage is petrochemical products. An accidental spill could destroy whooping cranes and/or their food resources. With the only wild breeding population so vulnerable, it is urgent that additional wild self-sustaining populations be established as soon as practical.

3. Recovery Efforts

The first recovery plan developed by the Whooping Crane Recovery Team (Team) was approved January 23, 1980. The first revision was approved on December 23, 1986, and the second revision on February 11, 1994. The short-term goal is to downlist the whooping crane from endangered to threatened. The criteria for attaining this downlisting goal is achieving a population level of 40 nesting pairs in the AWP and establishing 2 additional, separate, and self-sustaining populations consisting of 25 nesting pairs each. The recovery plan recommends these goals should be attained for 10 consecutive years before the species is reclassified to threatened. These new populations may be migratory or nonmigratory.

In 1985, the Director-General of the Canadian Wildlife Service and the Director of the U.S. Fish and Wildlife Service signed a memorandum of understanding (MOU) entitled ''Conservation of the Whooping Crane Related to Coordinated Management Activities.'' The MOU was revised and signed again in 1990 and 1995. It discusses disposition of birds and eggs, postmortem analysis, population restoration and objectives, new population sites, international management, recovery plans, consultation and coordination. All captive whooping cranes and their future progeny are jointly owned by the U.S. Fish and Wildlife Service and the Canadian Wildlife Service. Consequently, both nations are involved in recovery decisions.

4. Reintroduction Sites

In early 1984, pursuant to the recovery plan goals and the recommendation of the Team, potential whooping crane release areas were selected in the eastern United States. At that time the prognosis was favorable for successfully establishing a western population by use of the cross-fostering technique. Consequently, key considerations in selecting areas to

evaluate for the eastern release were (1) large areas of potentially suitable wetland habitat; (2) a healthy sandhill crane population sufficient to support recovery using the cross-fostering technique; (3) public and State agency support for such a recovery effort in the release locale; (4) low-to-moderate levels of avian disease pathogens, environmental contaminants, and powerlines; (5) the potential of the habitats to simultaneously support whooping cranes and sandhill cranes; and (6) a reasonable certainty that the new population would not have contact with the AWP.

The areas identified were the Upper Peninsula of Michigan and adjacent areas of Ontario, the Okefenokee Swamp in southern Georgia, and three sites in Florida. The Michigan site was projected to eventually support a migratory population. The Georgia and three Florida sites would each support a nonmigratory population. The Michigan/Ontario wetlands are occupied by greater sandhill cranes that winter in Florida and the Okefenokee Swamp of Georgia. The wetlands in Georgia and Florida are occupied by the nonmigratory Florida sandhill crane (*Grus canadensis pratensis*) and in winter by greater sandhill cranes, which nest primarily in southern Ontario, Michigan, eastern Minnesota, and Wisconsin. Three-year studies were initiated at each site in October 1984 to evaluate their respective suitabilities.

Results of the studies were presented in written final reports to the Whooping Crane Recovery Team in fall 1987 (Bennett and Bennett 1987, Bishop 1988, McMillen 1987, Nesbitt 1988) and in verbal reports in February 1988. By 1988, the Team recognized that cross-fostering was not working to establish a migratory population in the West. The possibility of inappropriate sexual imprinting associated with cross-fostering, and the lack of a proven technique for establishing a migratory flock influenced the Team to favor establishing a nonmigratory flock. A nonmigratory population has features that make it easier to achieve success: (1) Released birds do not face the hazards of migration (over one half of the losses of fledged, cross-fostered birds occurred during migration); and (2) released birds inhabit a more geographically limited area year-round than do migratory cranes, which increases the opportunity for the cranes to find a compatible mate.

Studies of whooping cranes (Drewien and Bizeau 1977) and greater sandhill cranes (Nesbitt 1988) have shown that, for these species, knowing when and where to migrate is learned rather than innate behavior. Captive-reared whooping cranes released in Florida were expected to develop a sedentary population.

In summer 1988, the Team selected Kissimmee Prairie in central Florida as the area most suitable for the next experiment to establish a self-sustaining population. Since 1993, captive-reared birds have been released annually in an attempt to establish a resident, nonmigratory flock. We expect releases to continue for the foreseeable future.

In 1996, the Team decided to investigate the potential for another reintroduction site in the eastern United States, with the intent of establishing an additional migratory population. Following a study of potential wintering sites by Dr. John Cannon (Cannon 1998), the Team selected the Chassahowitzka NWR /St. Martin's Marsh Aquatic Preserve as the top wintering site for a new migratory flock of whooping cranes. Based on concerns that a reintroduced population in Saskatchewan or Manitoba might mix with the wild AWP, the Team requested that Dr. Cannon see if suitable summering sites were present in Wisconsin, an area well east of the AWP migration corridor. The location of the release area was chosen to fulfill the criteria set forth by the Whooping Crane Recovery Team, that is, to establish a new migratory flock in a location where there would be a minimal chance of contact with the existing natural wild flock. This criterion was established out of concern for adverse impacts to the wild flock due to exchange of disease or undesirable behavior between any newly established migratory flock and the existing wild flock.

After preliminary data were gathered, a decision was made in 1998 to focus on three potential release sites in Wisconsin: Crex Meadows State Wildlife Management Area (WMA), central Wisconsin including Necedah NWR and several Wisconsin WMAs, and Horicon NWR.

Detailed analysis was presented at the Team's meeting in September 1999 (Cannon 1999), and the Team then recommended that releases be started in central Wisconsin. This recommendation was based on the presence of suitable habitat and food resources, favorable local attitudes, and geographic separation from the AWP population. The recommendation also was contingent upon the results of studies to further clarify the level of risk to cranes at this location from two separate sources. These were risks from local contaminants in the form of agricultural chemicals, and the disturbance caused by aircraft overflights associated with operations at the nearby Hardwood Air-to-Surface Bombing Range. The two issues were investigated to the satisfaction of the Team with results indicating a minimal likelihood of occurrence for both concerns, although the Patuxent Wildlife Research Center may conduct noise impact studies on whooping crane chicks. The wintering site is the Chassahowitzka NWR in Florida.

The objectives of the reintroduction are: (1) To implement a primary recovery action for a federally listed endangered species; (2) to further assess the suitability of Wisconsin and the Gulf coast of Florida as whooping crane habitat; and (3) to evaluate the suitability of releasing captive-reared whooping cranes, conditioned for wild release, as a technique for establishing a self-sustaining, migratory population. Information on survival of released birds, movements, behavior, causes of losses, reproductive success, and other data will be gathered throughout the project. Project progress will be evaluated annually.

The likelihood of the releases resulting in a self-sustaining population is believed to be good. Whooping cranes historically occurred in the Upper Midwest, and the release area is similar to that which supported nesting whooping cranes in adjacent Illinois and Iowa. The minimum goal for numbers of cranes to be released annually is based on the research of Griffith *et al.* (1989). As captive production increases, annual release numbers will be increased, dependent upon availability. For a long-lived species like the whooping crane, continuing releases for a number of years increases the likelihood of reaching a population level that can sustain fluctuating environmental conditions. The rearing and release techniques have proven successful in building the wild population of the endangered Mississippi sandhill cranes.

It is expected that whooping cranes released in Wisconsin and wintering in Florida will eventually interact with the existing flock present in the Kissimmee Prairie area. Whooping cranes led to Chassahowitzka NWR behind the ultralight aircraft may choose not to stay in the coastal saltmarsh when released, or may return to the Kissimmee Prairie the following winter and interact with the nonmigratory flock. The nonmigratory population is prone to wander considerable distances, and has been observed outside of the area where introduction efforts are under way (Marty Folk, pers. comm.). Some interaction during winter between migratory and nonmigratory cranes is

expected to occur. This raises the possibility that individual birds of each of the two flocks may acquire either migratory or nonmigratory behavior through association, especially if pairs form between members of the different populations. However, research with sandhill cranes in Florida has shown that migratory and nonmigratory populations mix during winter and yet maintain their own migratory and nonmigratory behaviors. The same would be expected with whooping cranes. In light of this knowledge, we expect that any shift in individual migratory behavior would be limited. Therefore, we expect that, even though individuals of the two populations may associate, the two flocks will remain distinct and each will represent a separate population as specified in the Whooping Crane Recovery Plan (USFWS 1994). As such, while the levels of protection will be the same, the two populations may be managed differently.

We may select additional release sites later during the project life to increase potential breeding range. Multiple release areas may increase the opportunity for successful pairing because females tend to disperse from their natal site when searching for a mate. Males, however, have a stronger homing tendency towards establishing their nesting territory near the natal area (Drewien *et al.* 1989). When captive-reared cranes are released at a wild location, the birds may view the release site as a natal area. If they do, females would disperse away from the release area in their search for a mate. In such a circumstance it may be advantageous to have several release sites to provide a broader distribution of territorial males. It is impossible, however, to predict which areas will be chosen by the birds. To allow for adapting release techniques that will maximize the chances for success, some flexibility will likely be necessary in the future. Therefore, it is possible that we will pursue future releases at other sites, which we may select based upon dispersal patterns observed in the cranes from initial releases. Several areas previously examined for suitability that may be candidates for future releases (Cannon 1999) include Horicon NWR and Crex Meadows State WMA in Wisconsin, and Seney NWR in the Upper Peninsula of Michigan.

This project has been coordinated with potentially affected State and Federal agencies, private landowners, and the general public. The Wisconsin Department of Natural Resources (DNR) manages several wildlife management areas in the primary release area; the Wisconsin DNR will be actively involved as a cooperator in releases, and has actively endorsed the project. The Canadian Wildlife Service, a partner with the U.S. Fish and Wildlife Service as noted in the Memorandum of Understanding, has approved the project. The project also was coordinated with both of the State of Florida's natural resource management agencies, particularly regarding migration and wintering aspects of the project. The Florida Fish and Wildlife Conservation Commission (FWCC), the State agency with responsibility for management of fish and wildlife resources, has expressed its support of the project. The Florida Department of Environmental Protection (DEP) is charged with environmental protection and administration of Florida's public conservation and recreation lands. We coordinated with the Florida DEP and received approval for use of the St. Martin's Marsh Aquatic Preserve during the overwintering phase of the sandhill crane migration experiment conducted in 2000–2001. We do not anticipate further involvement by the Florida DEP for the whooping crane reintroduction. If use of State lands becomes necessary in the future, we will coordinate further to obtain additional approvals.

We also have coordinated with the Department of Defense (Hardwood Air-to-Surface Bombing Range), which conducts training flights in the vicinity of Necedah NWR, and other landowners near the release site to advise them of the proposed whooping crane reintroduction and obtain their input. All have been cooperative and generally supportive of the project.

5. Reintroduction Protocol

We will conduct an initial release of 10 to 25 juvenile, captive-reared whooping cranes in the central Wisconsin area. These birds will be captive-reared to 20–40 days of age at Patuxent Wildlife Research Center in Laurel, Maryland, the International Crane Foundation in Baraboo, Wisconsin, and at other captive-rearing facilities. They will then be transferred to facilities at the Wisconsin release site, and conditioned for wild release to increase post-release survival (Ellis *et al.* 1992b, Zwank and Wilson 1987) and adaptability to wild foods. The cranes will be radio-tagged at release and monitored to discern movements, habitat use, other behavior, and survival. Whooping cranes would be released in the fall. The primary technique associated with migration will be leading the cranes by ultralight aircraft to the wintering site in Florida. If results of this initial release are favorable, releases will be continued with the goal of releasing up to 30 whooping cranes annually for about 10 years. Total numbers available for release will be dependent upon production at captive propagation facilities and the future need for additional releases into the Kissimmee flock.

Since the migration route is a learned rather than an innate behavior, captive-reared whooping cranes released in Wisconsin, or other northern areas of suitable habitat, will need to be taught where to migrate in order to develop the habit of migrating to a suitable wintering area. Captive-reared cranes are conditioned for wild release by being reared in isolation from humans; by use of conspecific role models (puppets), and by exercising with animal care personnel in crane costumes to avoid imprinting on humans (Ellis *et al.* 1992a, Horwich 1989, Urbanek and Bookhout 1992). This technique has been successful in supplementing the population of endangered nonmigratory Mississippi sandhill cranes (*Grus canadensis pulla*) (Zwank and Wilson 1987, Ellis *et al.* 1992b). Aircraft motor sounds are played to young crane chicks to get them acclimatized to engine noise. The ''following'' instinct of crane chicks is utilized to get them conditioned to walk behind motorized vehicles and/or aircraft. Once acclimatized, the cranes will follow the taxiing ultralight aircraft and soon learn to fly behind the ultralight. Using this technique (Clegg *et al.* 1997, Lishman *et al.* 1997), sandhill cranes were led in migration between Ontario and Virginia in 1997; four whooping cranes and eight sandhill cranes were taught a migration between Idaho and New Mexico in 1997. In a further migration experiment, eleven sandhill cranes were led from Wisconsin to Florida by ultralight aircraft in the fall of 2000. At least nine of the eleven cranes returned on their own to the release site in Wisconsin in the spring of 2001. The status of the other two cranes is unknown; they have not been sighted, nor were their radio-transmitted signals recorded as of May 2001. They may have returned as well, but were not detected because their radio transmitters may have malfunctioned, or because they returned to a remote area unmonitored.

Several different strategies for accomplishing migration to the Florida wintering site may be utilized: (1) Leading the cranes using an ultralight aircraft that the birds have been conditioned to follow; (2) allowing the released whooping cranes to migrate guided by wild sandhill cranes

(Urbanek and Bookhout 1994), or after the first year, guided by previously released whooping cranes; or (3) some combination of these two techniques. The rationale is to use the technique that is thought to have the highest probability of success, but to retain the option of using another potentially promising technique if conditions warrant. As the project proceeds, the intent is to use techniques that seem reasonable in light of present understanding of whooping crane biology. However, for the first fall migration season, the primary technique is expected to be use of the ultralight aircraft to lead the cranes to the chosen wintering site in Florida; birds not trainable to follow aircraft may be released with wild sandhills and then relocated to the appropriate wintering area or returned to captivity.

Status of Reintroduced Population

We determine this reintroduction to be nonessential to the continued existence of the species according to the provisions of section 10(j) of the Act. This designation is justified because no adverse effects to extant wild or captive whooping crane populations will result from release of progeny from the captive flock. We also have a reasonable expectation that the experiment will result in the successful establishment of a self-sustaining, migratory flock, which will contribute to the recovery of the species. The special rule is expected to ensure that this reintroduction is compatible with current or planned human activities in the release area.

We have concluded that this experimental population is nonessential to the continued existence of the whooping crane for the following reasons:

(a) For the time being, the AWP and the captive populations will be the primary species populations. With approximately 120 birds in captivity at 6 discrete sites, and approximately 176 birds in the AWP, the experimental population is not essential to the continued existence of the species. The species has been protected against the threat of extinction from a single catastrophic event by gradual recovery of the AWP and by increase and management of the cranes at the captive sites. Loss of the experimental population will not jeopardize the species' survival.

(b) For the time being, the primary repository of genetic diversity for the species will be the approximately 296 wild and captive whooping cranes mentioned in (a) above. The birds selected for reintroduction purposes will be as genetically redundant as possible with the captive population, hence any loss of reintroduced animals in this experiment will not significantly impact the goal of preserving maximum genetic diversity in the species.

(c) Any birds lost during the reintroduction attempt can be replaced through captive breeding. Production from the extant captive flock is already large enough to support the release of birds for this project, in addition to continued releases into the Kissimmee Prairie flock, with over 30 juveniles available annually. We expect this number to increase to over 40 as young pairs already in captivity reach breeding age. This illustrates the potential of the captive flock to replace individual birds proposed for release in reintroduction efforts.

The hazards and uncertainties of the reintroduction experiment are substantial, but a decision not to attempt to utilize the existing captive breeding potential to establish a second, wild, self-sustaining population could be equally hazardous to survival of the species in the wild. The AWP could be annihilated by catastrophic events such as a Gulf coast hurricane or a contaminant spill on the wintering grounds that would necessitate management efforts to establish an additional wild population. The recovery goal of 3 self-sustaining wild populations—consisting of 40 nesting pairs in the AWP and 2 additional, separate and self-sustaining, populations consisting of 25 nesting pairs each—should be in existence before the whooping crane can be downlisted to threatened status. Dependent upon future events, the nonmigratory Florida population would potentially be the second such population. An eastern U.S. migratory flock could be the third population. If this reintroduction effort is successful, conservation of the species will have been furthered considerably by establishing another self-sustaining population in currently unoccupied habitat. It would also confirm that captive-reared cranes can be used to establish a migratory, wild population.

Location of Reintroduced Population

Section 10(j) of the Act requires that an experimental population be geographically separate from other populations of the same species. The designated NEP area covers most of the eastern United States, with the expectation that most whooping cranes would be concentrated within the States of Wisconsin and Florida, as well as adjacent States, and those States within the migration corridor. States within the NEP area include Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. All of these States are considered to be within the probable historic range of the species. Any whooping crane found within this area will be considered part of the experimental population. Initial releases are planned for central Wisconsin, with plans for a wintering location on the Florida Gulf coast. It is difficult to predict where individual whooping cranes may disperse following release within the project area. Designation of this NEP allows for the possible occurrence of cranes anywhere within most of the eastern United States.

a. Potential Release Areas

The potential release areas in Wisconsin include Necedah NWR, Horicon NWR, and Crex Meadows State Wildlife Management Area. Initial releases will be at the Necedah NWR in Juneau County, Wisconsin. The location of future releases will depend upon habitat use and dispersal patterns of released cranes.

A majority of the movements of the released cranes are expected to occur within the central Wisconsin area, which comprises approximately 2,000 square kilometers characterized by a mosaic of forest and open wetlands. Numerous small streams cut across the landscape, many of which have been ditched for purposes of agricultural drainage. Much of the landscape is forested, consisting of mixed forests interspersed with open expanses of sedge and shrub wetlands, small streams and ponds.

On surrounding private lands, a significant amount of historic wetland habitat has been converted to cranberry culture. Land ownership includes a number of larger private holdings devoted to cranberry production and six large public ownerships totaling 83,222 hectares (ha) (205,651 acres). County-owned lands within the four-county area surrounding Necedah NWR include significant acreage, primarily devoted to forestry, totaling 65,810 ha (162,624 ac).

The principal private land uses are forestry, cranberry culture and other agriculture, and recreational hunting. Upland forests are managed for sawtimber and firewood production, on either a clear-cut rotational basis or selective harvest, dependent upon forest type and management objectives. Wetland habitat utilized for cranberry culture is managed mainly through the manipulation of water regime, in the form of seasonal flooding. The public

lands are managed for wildlife values, recreation, water conservation, and to maintain natural habitat conditions. Compared to other areas in Wisconsin, the central Wisconsin area has experienced limited human population growth over the past 30 years due to its distance from major population centers and low suitability for agriculture. The presence of large public land holdings is at least in part a result of unsuccessful agricultural development. Cannon (1999) has estimated that approximately 37,000 ha (92,000 ac) of suitable whooping crane habitat exists in the central Wisconsin area.

b. Primary Wintering Area

The primary wintering site is on the Chassahowitzka NWR, of which 55 percent (6,908 ha or 17,070 ac) is suitable crane habitat. The refuge comprises over 12,500 ha (31,000 ac) of saltwater bays, estuaries, and brackish marshes with a fringe of hardwood swamps along the eastern boundary. Dispersed throughout the salt marsh in a jigsaw puzzle fashion is 4,048 ha (10,000 ac) of estuarine habitat in the form of shallow bays and tidal streams; the largest of the streams being the Chassahowitzka and Homosassa Rivers. Because of three transitional salinity stages (ranging from fresh spring water, to brackish, and then to the saline waters of the Gulf of Mexico), a wide range of aquatic plant and animal life flourishes within all parts of the system. A wintering site study (Cannon 1998) rated Chassahowitzka NWR as an excellent site for wintering whooping cranes based on available habitat, adjacent expansion possibilities, adequate isolation, and abundant food resources.

Adjacent to the Chassahowitzka NWR, are two State of Florida-owned properties that support suitable crane habitat the wintering cranes may occasionally use. These areas are the 36,000-acre (14,568 ha) St. Martin's Marsh Aquatic Preserve and the 9,308 ha (23,000 ac) Crystal River State Buffer Preserve. Both sites contain habitats similar to those in Chassahowitzka NWR.

Management

a. Monitoring

Whooping cranes will be intensively monitored by project personnel prior to and after release. The birds will be observed daily while they are in the conditioning pen. Facilities for captive maintenance of the birds will include the same facilities used for sandhill cranes during an experimental migration project in 2000; these facilities were modeled after facilities at the U.S. Geological Survey's Patuxent Wildlife Research Center (PWRC) and the International Crane Foundation. They conform to standards set forth in the Animal Welfare Act and Florida Wildlife Code (Title 39.6 F.A.C). To further ensure the well-being of birds in captivity and their suitability for release to the wild, facilities incorporate features of their natural environment (e.g., feeding, loafing, and roosting habitat) to the extent possible. Pre-release conditioning will occur at facilities near the release site.

To ensure contact with the released birds, each crane will be equipped with legband-mounted radio telemetry transmitters. Subsequent to gentle-release, the birds will be monitored regularly to assess movements and dispersal from the area of the release pen. Whooping cranes will be checked regularly for mortality or indications of disease (e.g., listlessness, social exclusion, flightlessness, or obvious weakness). Social behavior (e.g., pair formation, dominance, cohort loyalty) also will be evaluated.

A voucher blood serum sample will be taken for each crane prior to its arrival in Wisconsin. A second sample will be taken just prior to release. Any time a bird is handled after release, a blood sample may be taken to monitor disease exposure and physiological condition. One year after release, when possible, all surviving whooping cranes may be captured and an evaluation made of their exposure to disease/parasites through blood, fecal, and other sampling regimens. Monitoring will continue, opportunistically, for multiple years whenever cranes are recaptured to replace radio transmitters. If preliminary results are favorable, the releases will be continued annually, with the goal of releasing up to 30 birds per year for about 10 years and then evaluating the success of the recovery effort.

b. Disease/Parasite Considerations

Both sandhill and whooping cranes are known to be vulnerable, in part or all of their natural range, to avian herpes (inclusion body disease), avian cholera, acute and chronic mycotoxicosis, eastern equine encephalitis (EEE), and avian tuberculosis. Additionally, *Eimeria* spp., *Haemogroteus* spp., *Leucocytozoon* spp., avian pox, lead poisoning, and *Hexamita* sp. have been identified as debilitating or lethal factors in wild or pre-release, captive populations.

A group of crane veterinarians and disease specialists have developed protocols for pre-release and pre-transfer health screening for birds selected for release to prevent introduction of diseases and parasites into the eastern flyway. Exposure to disease and parasites will be evaluated through blood, serum, and fecal analysis of any individual crane handled post-release or at the regular monitoring interval. Remedial action will be taken to return to good health any sick individuals taken into captivity. Sick birds will be held in special facilities and their health and treatment monitored by veterinarians. Special attention will be given to EEE because an outbreak at the PWRC in 1984 killed 7 of 39 whooping cranes present there. After the outbreak, a vaccine was developed for use on captive cranes. In 1989, EEE was documented in sentinel bobwhite quail and sandhill cranes at the PWRC. No whooping cranes became ill, and it appears the vaccine may provide protection. EEE is present in Wisconsin, so the released birds may be vaccinated. Other strains of encephalitis (St. Louis, Everglades) also occur in Wisconsin. The vaccine for EEE may also provide protection against these arboviruses.

When appropriate, other avian species may be used to assess the prevalence of certain disease factors. This could mean using sentinel turkeys for ascertaining exposure probability to encephalitis or evaluating a species with similar food habits for susceptibility to chronic mycotoxicosis.

c. Genetic Considerations

The ultimate genetic goal of the reintroduction program is to establish wild reintroduced populations that possess the maximum level of genetic diversity available from the captive population. Early reintroductions will likely consist of a biased sample of the genetic diversity of the captive gene pool, with certain genetic lineages over-represented. This bias will be corrected at a later date by selecting and re-establishing breeding whooping cranes that, theoretically, compensate for any genetic biases in earlier releases.

d. Mortality

Although efforts will be made to minimize mortality, some will inevitably occur as captive-reared birds adapt to the wild. Collision with power lines and fences are known hazards to wild whooping cranes. No major power lines cross the release or wintering sites. Tall woven-wire and barbed-wire fencing is commonly used in the central Wisconsin area and presents some collision hazard. If whooping cranes begin regular use of areas traversed by power lines or fences, the Service and

Wisconsin DNR will consider placing markers on the obstacles to reduce the probability of collisions.

Wolves are known predators of adult sandhill cranes and would be potential predators of adult whooping cranes, as would coyotes and bald eagles. Red fox, bobcats, owls, and raccoons are potential predators of young cranes. Natural mortality from predators, fluctuating food availability, disease, and wild feeding inexperience will be reduced through predator management, vaccination, gentle release, supplemental feeding for a post-release period, and pre-release conditioning. This conditioning will include teaching the habit of roosting in standing water. Predation by bobcats has been a significant source of mortality in the Kissimmee Prairie, Florida flock, and teaching this roosting behavior to young birds should help to reduce losses to wolves, coyotes, and bobcats. Human-caused mortality will be reduced by information and education efforts directed at landowners and land users, and review and management of human activities in the area.

Recently released whooping cranes will need protection from natural sources of mortality (predators, disease, and inadequate foods) and from human-caused sources of mortality. We will minimize human-caused mortality through a number of measures such as: (a) Placing whooping cranes in an area with low human population density and relatively low development; (b) working with and educating landowners, land managers, developers, and recreationists to develop means for conducting their existing and planned activities in a manner that is compatible with whooping crane recovery; and (c) conferring with developers on proposed actions and providing recommendations that will reduce any likely adverse impacts to the cranes.

e. Special Handling

The Service, State employees, and their agents are authorized to relocate whooping cranes to avoid conflict with human activities; relocate whooping cranes that have moved outside the appropriate release area or the NEP area when removal is necessary or requested; relocate whooping cranes within the NEP area to improve survival and recovery prospects; and aid animals that are sick, injured or otherwise in need of special care. If a whooping crane is determined to be unfit to remain in the wild, it will be returned to captivity. The Service, State employees, and their agents are authorized to salvage dead whooping cranes.

f. Potential Conflicts

Conflicts have resulted in the central and western United States from the hunting of migratory birds in areas utilized by whooping cranes, particularly the hunting of sandhill cranes and snow geese (*Chen cerulescens*), which to novice hunters may appear similar to whooping cranes.

In recent years, only two to three crane mortalities have been documented incidental to hunting activities. Sandhill cranes are not hunted in Wisconsin although a future hunting season is being considered, and snow geese are an uncommon migrant and have not been present in large numbers. Sandhill cranes and snow geese are not hunted in the area of the wintering site in Florida. Accidental shooting of a whooping crane in this experimental population occurring in the course of otherwise lawful hunting activity is exempt from take restrictions under the Act in this special regulation. Applicable Federal penalties under the Migratory Bird Treaty Act and/or State penalties, however, may still apply. We will minimize mortality due to accidental shootings by providing educational opportunities and information to hunters to assist them in distinguishing whooping cranes from legal game species. There will be no federally mandated hunting area or season closures or season modifications, including conservation order seasons, resulting from the establishment of the eastern U.S. whooping crane NEP.

We established a conservation order in a final rule published in the December 20, 1999, **Federal Register** (Volume 64, Number 243). The conservation order is aimed at reducing the populations of lesser snow geese (*Anser caerulescens caerulescens*) and Ross' geese (*Anser rossii*) that breed, migrate, and winter in the mid-continent portion of North America, primarily in the Central and Mississippi Flyways. These geese are referred to as mid-continent light geese (MCLG). We established the order allowing take of the geese to prevent further habitat degradation by the MCLG population, which had reached such a high level that the geese were seriously injuring their arctic and subarctic breeding grounds through their feeding actions. We set a management goal to reduce the MCLG by 50 percent by the year 2005. The conservation order can be implemented in the States, or portions of States, contained within the boundaries of the Central and Mississippi Flyways, including Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

The bulk of traditional hunting in the primary release area has been for deer (*Odocoileus virginianus*), turkey (*Meleagris gallopavo*), and small game. Conflict with traditional hunting in the release area is not anticipated. Access to some limited areas at release or wintering sites and at ultralight migration stopover points could be temporarily restricted at times when whooping cranes might be particularly vulnerable to human disturbance (i.e., around rearing and training facilities in the spring/summer and conditioning and holding pens in the fall/winter). Any temporary restricted access to areas for these purposes will be of the minimum size and duration necessary for protection of the NEP cranes, and will be closely coordinated with and at the discretion of the respective States. Any such access restrictions will not require Federal closure of hunting areas or seasons.

States within the NEP area maintain their management prerogatives regarding the whooping crane. They are not directed by this rule to take any specific actions to provide any special protective measures, nor are they prevented from imposing restrictions under State law, such as protective designations, and area closures. None of the States within the NEP area have indicated that they would propose hunting restrictions or closures related to game species because of the whooping crane reintroduction.

Overall, the presence of whooping cranes is not expected to result in placement of constraints on hunting of wildlife or to affect economic gain landowners might receive from hunting leases. The potential exists for future hunting seasons to be established for other migratory birds that are not currently hunted in some of the States within the NEP area. The action will not prevent the establishment of future hunting or conservation order seasons approved for other migratory bird species by the Mississippi or Atlantic Flyway Councils.

The principal activities on private property adjacent to the release area are agriculture and recreation. Use of these private properties by whooping cranes will not preclude such uses. The special regulation accompanying this rule authorizes incidental take of the whooping crane in the NEP area when the take is accidental and incidental to an otherwise lawful activity.

An additional issue identified as a possible conflict is the potential for crop depredation. There is evidence that some sandhill cranes have caused locally significant losses of emerging corn in some areas in Wisconsin. It is possible that whooping cranes could engage in this type of behavior as well. Whooping cranes are socially less gregarious than sandhill cranes, and tend to restrict the bulk of their foraging activities to wetland areas. Therefore, they are believed to be less likely to cause significant crop depredations. If such depredations occur, they can be eliminated through use of bird scaring devices and other techniques. Ongoing research on seed treatments as a deterrent to corn depredation is promising (Blackwell, Helon and Dolbeer, in press).

Other agricultural crops found in the release area include cranberries. Some concern has been expressed that whooping cranes may consume cranberries. Although potential habitat is present near cranberry operations, cranberries are not likely to be an attractive food item as compared to animal matter, during most of the time period that whooping cranes would be present in Wisconsin. Cranberry beds are flooded at harvest time, and when large numbers of berries are gathered they could be more vulnerable to depredation. However, this event occurs in late fall, after whooping cranes would have departed for their wintering grounds. In addition, the numerous sandhill cranes in Wisconsin have not caused cranberry crop depredation. Therefore, we do not expect that whooping cranes will pose a significant threat to crop depredation on cranberries.

Released whooping cranes might wander into other States or other locations in the eastern United States outside of the expected migration corridor, or even outside the NEP area. We believe the frequency of such movements is likely to be low. Any whooping cranes that leave this experimental population area will be considered endangered. However, for any whooping cranes known to be from the eastern United States NEP, that move outside the NEP area, including those that move into the migration corridor of the AWP, attempts will be made to capture and return them to the appropriate area if a reasonable possibility exists for contact with the AWP population or if removal is requested by the State which they enter.

Birds from the AWP flock have rarely been observed in any of the States within the NEP area except as a result of an extreme weather event; they are expected to be in the NEP area very infrequently and only temporarily. Any whooping cranes that occur within the NEP area will be considered to be part of the NEP and will be subject to the protective measures in place for the NEP. Because of the extremely limited number of incidents anticipated, the decreased level of protections afforded AWP cranes that cross into the NEP is not expected to have any significant adverse impacts to the AWP.

For at least the first year of project life, whooping cranes will be led to the Florida wintering site utilizing ultralight aircraft and stopping at a series of previously chosen stopover locations en route. During subsequent migration periods, it will be difficult to predict which specific sites will be utilized by the birds, and some cranes may use stopover sites with which they have no previous experience. Whooping cranes that appear in undesirable locations while in migration will be considered for relocation by capture and/or hazing of the birds. Possible conflicts with recreational and agricultural interests within the migration corridor will be minimized through an extensive public education program.

Access to whooping cranes may be temporarily restricted in limited areas near rearing and acclimatization facilities and at ultralight migration stopover locations to minimize disturbance at times of greatest vulnerability and sensitivity. Any temporarily restricted access to areas for these purposes will be, (1) of the minimum size and duration necessary for protection of the NEP cranes, (2) will not require Federal closure of hunting or conservation order areas or seasons, and (3) will be closely coordinated with and at the discretion of the respective States.

Previous Federal Action

We held public meetings in Florida in December of 1997 and in Wisconsin in May of 1999, to determine public interest and concerns regarding the potential reintroduction of a migratory flock of whooping cranes to the eastern United States. In 1999, the Service, the Wisconsin DNR, and International Crane Foundation representatives met to identify issues and concerns related to whooping crane reintroduction.

The Wisconsin and Florida informational meetings offered the general public an opportunity to review and offer informal comments on the proposed action. The public has appeared extremely supportive of the proposed action, provided it does not interfere with existing lifestyles and current and potential income. We attempted to notify all known or determinable affected parties and other interested agencies, groups, and individuals of the opportunity to comment on this rule. We held four public hearings during the public comment period as a further measure to encourage public input on the proposed action. We have incorporated those comments into this final rule.

We have made presentations to numerous organizations and potentially affected interest groups, government representatives of States along the potential migration route, the Atlantic and Mississippi Flyway Councils and their Technical Sections, the Wisconsin Natural Resources Board, the Florida Fish and Wildlife Conservation Commission (FLFWCC), and other interested agencies to obtain input on the potential for reintroduction of a migratory whooping crane population in the eastern United States. We have conducted extensive coordination, both formal and informal, with all States within the NEP area. We asked all States to give their formal endorsement to the project prior to implementation, and we have received the concurrence and support of all States within or adjacent to the expected migration corridor.

An extensive sharing of information about the program and the species, via educational efforts targeted toward the public throughout the NEP area and nationally, will enhance public awareness of this species and its reintroduction. We will encourage the public to cooperate with the Service, Wisconsin DNR, and the Florida FWCC in attempts to maintain and protect whooping cranes in the release areas and wintering area.

Summary of Comments and Recommendations

In the March 9, 2001, proposed rule (66 FR 14107), we requested comments or recommendations concerning any aspect of the proposal that might contribute to development of the final decision on the proposed rule. A 45-day comment period was provided. We sent copies of the rule and other informational materials about the project to State and Federal agencies, Congressional representatives, Tribes, Flyway Councils, conservation and hunting groups, and numerous private citizens who had expressed an interest in receiving further information on the project.

Changes in the final rule as a result of public comments: Minor changes have been made to the special rule as a result of comments received. These additions or changes do not alter the predicted impact or effect of the final rule:

1. We amended 50 CFR 17.84(h)(8) to include conservation order seasons to clarify areas where there will be no federally mandated closures of areas or closures or modification of hunting seasons for protection of this NEP.

2. We also clarified, within § 17.84(h)(8), that we would remove clearly marked individuals of this NEP from States outside of the boundaries of the NEP, when requested by the State.

We held four public hearings to receive comments on the proposed rule, at locations along the expected migration corridor. We received a total of 116 responses on the proposed rule, including 16 oral and 100 written comments. Of these comments, 14 were from State, county, or city governments, 87 were from individuals, 14 were from organizations and industry, and 1 was from Canada. Of these commentors, 94 supported the proposal of designating a nonessential experimental population, 9 expressed support under certain conditions, 10 disagreed with certain aspects of the proposal, 3 expressed no position, and none expressed direct opposition. Analysis of the comments revealed 11 issues that are identified and discussed below.

Issue 1: Reintroduction should be pursued in the Rocky Mountain States, along a migration corridor that was utilized in previous reintroduction attempts. The Service should not forget the Rocky Mountain flyway, and should keep this option open for some future reintroduction effort.

Our Response: The current proposal for reintroduction in the eastern United States reflects the most recent recommendation of the International Whooping Crane Recovery Team. This recommendation was arrived at only after complete and careful consideration of all factors likely to influence the re-establishment of another self-sustaining flock of whooping cranes, to contribute towards recovery of the species. Some of these factors are discussed within the ''Background'' section in this rule. Factors addressed include the presence of suitable breeding and wintering habitat and food resources, geographic separation from the existing natural wild flock, and support from States and the public. All States within the NEP area have gone on record as supporting the project. While some segments of the western public continue to be very supportive of reintroduction efforts in the western United States, not all the States within the Rocky Mountain flyway are supportive of reintroduction of the whooping crane in that area. Some aspects of reintroduction in the Rocky Mountain States hold promise, and the area will remain under consideration for a future reintroduction when conditions are more favorable for the effort.

Issue 2: No closures of hunting areas should occur due to the presence of NEP whooping cranes. In addition, the Service should include conservation order seasons when discussing hunting seasons.

Our Response: We will not mandate any closure of areas, including National Wildlife Refuges, during hunting seasons or closure or modification of hunting seasons for the purpose of avoiding take of the NEP. While this will preclude federally mandated closures within the NEP area, States still retain the power to impose closures at their discretion. However, no States have indicated any desire to institute such closures. We agree that adding conservation seasons is more in line with our intent of this section of the rule. We have modified the final rule to include conservation order seasons.

Issue 3: The Act should be modified to provide protections against ''citizen lawsuits'' to prevent groups or individuals from filing suit at some future date forcing the Service to institute protective measures for this NEP that adversely affect private property rights.

Our Response: We have made every effort to ensure that the reintroduction proposal covered by the rule does not interfere with private property rights. This rule provides that take of whooping crane that is accidental and incidental to an otherwise lawful activity is not prohibited. Activities such as agricultural practices, pesticide application, water management, construction, recreation, trapping, or hunting, if performed in the above described manner, should continue as before. We are the Federal agency given responsibility for administration of the Act; however, we do not have independent authority to revise the Act to provide protection from citizen lawsuits; that would require an act of Congress.

Issue 4: Eastern U.S. NEP cranes or their offspring could stray into the Central Flyway States at some future date resulting in adverse effects to the AWP, or to ongoing human activities. All released cranes, and all their future progeny, should be permanently marked so they could be monitored, and removed from any undesirable areas (i.e., Central Flyway States).

Our Response: We will mark all released cranes with color bands and/or radio or satellite transmitters, and implant coded electronic microchips under the skin which will allow identification of these birds even if the transmitters or bands are lost. In addition, we will make every effort within the 10-year life of the project, to capture and similarly apply color bands to any future offspring of reintroduced NEP whooping cranes. This would be accomplished by capturing and marking offspring prior to fledging. With little nesting expected during the early phase of the project, we believe that nearly all young birds would be captured and marked. Later in the project, however, it may become more difficult to mark offspring if increased nesting occurs in remote locations. For at least the 10-year life of the reintroduction project, the color banding of all offspring will include attempts to capture any unmarked juvenile cranes that migrate with, and are clearly part of, NEP family groups.

Issue 5: Any whooping crane originating from eastern U.S. reintroduction efforts should maintain the NEP status, even if one occurs outside the designated NEP area.

Our Response: If one or more whooping cranes from the eastern U.S. NEP moves out of the designated eastern U.S. NEP area, the status of those birds would then be considered endangered. Section 10(j) of the Act, which provides for the establishment of experimental populations, directs that experimental populations be delineated by geographic boundaries, and that an NEP cannot overlap or include currently occupied range of the species. In the event that one of the eastern U.S. NEP whooping cranes wanders into the Central Flyway, we will immediately initiate discussions with the involved State or States to determine the appropriate action to take. This action could include non-intervention if the crane is moving through on migration and no adverse impacts are expected, or some form of intervention to attempt to remove or relocate the bird or birds, if determined necessary by us or if requested by the involved State. As provided for in paragraph (8)(i) and (ii) of this final rule, the course of action will not include closure of hunting areas or seasons, including those pertaining to conservation orders, for the purpose of protecting individual cranes known to have originated from the eastern U.S. whooping crane NEP.

The Service, the recovery team, and the reintroduction partnership, in consultation with the States, will constantly evaluate the behavior of all reintroduced cranes and will attempt to remove or relocate birds that exhibit unsatisfactory behavior. In addition, we will reevaluate the eastern U.S. whooping crane reintroduction if significant numbers of cranes move into

the Central Flyway on a routine basis, or if any mixing with the AWP population occurs. The reevaluation could result in modifications to the project, or termination if warranted. Mixing of the AWP and eastern U.S. reintroduced population is undesirable due to the potential for disease transmission or other adverse impacts and was a primary reason for the recovery team recommendation to pursue the Wisconsin-to-Florida migration route. Based upon research with sandhill cranes, and migration behavior of the AWP population, it is believed that any mixing which may occur will be extremely rare. However, we agree to manage eastern U.S. NEP whooping cranes that move into the Central Flyway to the maximum extent possible to prevent disruption of human activities, but still meet the requirements of the Act.

Issue 6: It is inappropriate to allow for penalties less than those of the Act in the event of an accidental shooting. Current restrictions against the illegal take of protected migratory birds, as well as those restrictions in place for the Mexican wolf, a federally listed endangered species, dictate that the hunter is responsible for identification of their quarry before shooting.

Our Response: We stated in the proposed rule that in the event an accidental shooting occurred in the course of an otherwise lawful activity (i.e., hunting in accordance with all laws and regulations), Endangered Species Act penalties would not apply; however, applicable Federal penalties under the Migratory Bird Treaty Act and/or State penalties may still apply. The incidental take provision was proposed in an effort to allay concerns of hunters and other sectors of the public. They were concerned that their property rights, business, or recreational activities would be negatively impacted by Federal restrictions and penalties if a whooping crane was injured or killed accidentally as a result of an activity they were carrying out legally. We do not believe this provision of our regulation is likely to lead to the increased incidence of illegal shooting of whooping cranes. In recent years, shootings, intentional or otherwise, of wild whooping cranes from the AWP flock or the reintroduced Florida nonmigratory NEP have been rare. We believe that mortality to the eastern U.S. whooping crane NEP from shooting, even with the relaxation of penalties in place, is likely to be low. Substantial outreach efforts will be made to seek the cooperation of the hunting public and emphasize species identification to minimize potential mishaps. In the event a whooping crane is shot intentionally, (for example, if shot deliberately when no hunting season was open), the penalties of the Act would still apply.

Issue 7: Tax dollars should not be spent on this project or any other endangered species recovery effort.

Our Response: We are responsible for the protection and recovery of federally listed threatened and endangered species, as mandated by the Act. The Act does not provide us with the discretion to refuse to pursue recovery of any individual species; rather, we are mandated to apply our resources in an effective manner to accomplish the recovery of all federally listed species. This project is being coordinated with the multiple-partner Whooping Crane Eastern Partnership (WCEP), a collaborative group of government and non-government entities working together to accomplish the reintroduction of the whooping crane to the eastern United States. The WCEP is committed to raising over 50 percent of the project budget from private sources. This will reduce the amount of Federal tax dollars necessary to implement the project.

Issue 8: Wild sandhill cranes should not be used to guide released whooping cranes to the wintering area. The Service has not demonstrated the ability to retrieve whooping cranes from the central Florida sandhill crane wintering grounds and bring them to the desired wintering location at Chassahowitzka NWR.

Our Response: We agree that it may prove difficult to retrieve whooping cranes that migrate to central Florida and relocate them to Chassahowitzka NWR. However, we support the recovery team's recommended approach that multiple reintroduction methods be available so that strategies may be adapted to a wide range of possible scenarios in accomplishing this reintroduction. We will not use the wild sandhill crane guided migration method for the first year of the project. As indicated in the ''Reintroduction Protocol'' section, we will use ultralight aircraft to lead the initially released whooping cranes in migration to Florida. In the future, before we consider using wild sandhill cranes to guide released whooping cranes in migration, we will consult with the State of Florida and obtain the State's concurrence before proceeding with that approach.

Issue 9: It is appropriate to expand the proposed NEP area to include the 11 additional northeastern States discussed in the proposed rule. To do so at this time would be an efficient use of the Service's rulemaking resources, rather than putting off this action until a later date.

Our Response: In the proposed rule, we specifically asked for comments on the appropriateness of including 11 additional States in the northeastern United States in the designated eastern U.S. whooping crane NEP area. This action could help minimize potential for conflicts with human activities that may result from an eastern United States NEP whooping crane wandering into one of those States, where the status of such birds would be considered as endangered. During the comment period we received one comment about adding the States to the NEP. No comments were received from any of the 11 northeastern States. After further consideration, we have decided that including those States within this NEP area is not necessary at this time. We believe the likelihood that a whooping crane from the eastern U.S. NEP will stray into those States is slight. If future movements of whooping cranes indicate that including the northeastern States within the eastern United States NEP area would be prudent, we will consult with the affected States and propose adding them through a separate rulemaking.

Issue 10: Why are species still considered endangered when humans can clone animals and any living thing?

Our Response: While cloning techniques have advanced significantly during the past few years, and it is now technically possible to clone higher organisms, the technology is far from being perfected to a point where it could be applied on an operational scale. In addition, extensive questions and issues still remain from many standpoints including science, genetics, ethics, economic feasibility, as well as national and international laws and policies. As such, it is premature to consider cloning as a viable strategy for restoring endangered species. Even if cloning does prove to be effective in the future, it is not likely that cloning would be implemented exclusively as the only method used to achieve species' recovery. In addition, the purpose of the Act goes beyond restoring the number of individuals but is to conserve populations in the wild and the ecosystems upon which they depend.

Issue 11: Whooping cranes should not be released in Wisconsin because of the potential for agricultural damage by the birds. Reintroduction efforts should be pursued using release sites in Michigan.

Our Response: We believe the potential for adverse impacts to agriculture by whooping cranes is low due to the small number of birds that

will be present and the habitat and food preferences of whooping cranes. Because they prefer shallow, open-water marsh habitat and food is primarily aquatic animal matter (e.g., aquatic insects, invertebrates, minnows, frogs), the whooping cranes are not likely to cause agricultural damage. In the Environmental Assessment, we analyzed all reasonable alternatives for conducting the whooping crane reintroduction into the eastern United States, including establishing release sites in Michigan. Based upon careful consideration of all factors associated with the reintroduction, we have determined that the preferred alternative is to release the whooping cranes in Wisconsin.

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this final rule to designate NEP status for the whooping crane reintroduction into the eastern United States is not a significant regulatory action subject to Office of Management and Budget review. This rule will not have an annual economic effect of $100 million and will not have an adverse effect upon any economic sector, productivity, competition, jobs, the environment, or other units of government. Therefore, a cost-benefit economic analysis is not required.

Lands where releases would be conducted include Necedah and Horicon National Wildlife Refuges, and the Crex Meadows State Wildlife Area in Wisconsin. The wintering site in Florida is primarily Chassahowitzka National Wildlife Refuge and may include the adjacent St. Martin's Marsh Aquatic Preserve and Crystal River State Buffer Preserve. Following release, birds from the NEP are likely to utilize private lands adjacent to both the release areas and the wintering site. Because of the substantial regulatory relief provided by NEP designations, we do not believe the reintroduction of whooping cranes will conflict with existing human activities or hinder public or private use of lands within the NEP area. Likewise, no governments, individuals, or corporations will be required to manage specifically for reintroduced whooping cranes.

This rule will not create inconsistencies with other agency's actions or otherwise interfere with an action taken or planned by another agency. Because of the substantial regulatory relief provided by NEP designations, we do not believe the presence of whooping cranes will obligate any agency or government to take an action which would conflict with their existing authorities or activities within the NEP area. This rule will allow any agency or citizen to conduct otherwise legal activities under provisions of the Act.

This rule will not materially affect entitlements, grants, user fees, loan programs or the rights or obligations of their recipients. This rule will not raise novel legal or policy issues. We have previously designated an experimental population of whooping cranes in Florida and for other species at numerous locations throughout the nation.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The area affected by this rule includes 20 States within the eastern United States. We do not expect this rule to have any significant effect on recreational, agricultural, or development activities within the NEP area. There will be no federally-mandated closures of seasons or areas to hunting or conservation order actions for protection of the NEP. We expect only temporary access restrictions to limited areas in the vicinity of rearing and release facilities at times during the spring/summer rearing period, during migration with ultralight aircraft, or at the wintering site. In the primary release area, these closures are not expected to occur outside of existing, long-established closed areas on Necedah NWR. Any temporarily restricted access to areas will be of the minimum size and duration necessary to provide for protection to the NEP cranes during rearing or release activities, and will be conducted in close coordination with the States. Because any such access restrictions will be of short duration and will not require Federal closure of hunting areas or seasons, we do not expect any significant effect on recreational activities. Because no new or additional economic or regulatory restrictions will be imposed upon States, Federal agencies, or members of the public due to the presence of members of the NEP, this rulemaking is not expected to have any significant adverse impacts to recreation, agriculture, or any development activities. The designation of an NEP in this rule will significantly reduce the regulatory requirements regarding the reintroduction of these whooping cranes, will not create inconsistencies with other agency actions, and will not conflict with existing or proposed human activity, or State, Tribal, or private use of lands within the NEP area.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule will not have an annual effect on the economy of $100 million or more for reasons outlined above. It will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

The NEP designation will not place any additional requirements on any city, county, or other local municipalities. The NEP designation has been endorsed by all of the States within the NEP area. A Small Government Agency Plan is not required. Because this rulemaking does not require that any action be taken by local or State government or private entities, we have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities (i.e., it is not a ''significant regulatory action'').

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. We do not expect this rule to have a potential takings implication under Executive Order 12630 because it would exempt individuals or corporations from prosecution for take that is accidental and incidental to an otherwise lawful activity. In addition, private entities would also be exempt from any restrictions imposed by consultation requirements under section 7(a)(2) of the Act, as consultation will not likely be conducted except on National Wildlife Refuges or National Parks. Because of the substantial regulatory relief provided by NEP designations, we do not believe the reintroduction of whooping cranes would conflict with existing human activities or hinder public use of lands within the NEP area. None of the States within the NEP area will be required to manage specifically for reintroduced whooping cranes, and all of those States have endorsed the

NEP designation. A takings implication assessment is not required.

Federalism

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As stated above, designation of this population as nonessential experimental will preclude any additional regulatory burdens on public and private entities within the NEP area. A Federalism assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and E.O. 13175, we have notified the Native American Tribes within the nonessential experimental population area about this proposal. They have been advised through verbal and written contact, including informational mailings from the Service. Information was also sent to the Great Lakes Indian Fish and Wildlife Commission, 1854 Authority, Chippewa Ottawa Resource Authority, and Native American Fish and Wildlife Society. If future activities resulting from this rule may affect Tribal resources, a Plan of Cooperation will be developed with the affected Tribe or Tribes.

Paperwork Reduction Act

This rule contains information collection activity for experimental populations. We have OMB approval for the collection under OMB Control Number 1018–0094. The Service may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have prepared an environmental assessment as defined under the authority of the National Environmental Policy Act of 1969. It is available from Service offices identified in the **ADDRESSES** section.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Effective Date

We find good cause under the Administrative Procedure Act (5 U.S.C. 553(d)(3)) to make this rule effective upon publication. The prompt release of currently available captive-reared whooping cranes is necessary because: (1) There is a limited time during which chicks will hatch in the captive whooping crane flock and be available for rearing; (2) the facilities in which the crane chicks are held are not designed to hold the birds for extended periods; and (3) the young cranes become less suitable for wild release if they are held in captivity for too long. If young cranes cannot be transported to Wisconsin by late June or early July 2001 for further stages of rearing and to begin training for the migration process, the reintroduction will likely have to be delayed until next year. Therefore, good cause exists for this rule to be effective immediately upon its publication.

References Cited

A complete list of all references cited in this final rule is available upon request from the Green Bay Field Office (see **ADDRESSES** section).

Authors

The principal authors of this rule are Joel Trick and Janet Smith, U.S. Fish and Wildlife Service, Green Bay, WI (Phone: 920–465–7440); Tom Stehn, U.S. Fish and Wildlife Service, Austwell, TX (Phone 361–286–3559); and Linda Walker, U.S. Fish and Wildlife Service, Jacksonville, FL (Phone: 904–232–2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the existing entry for ''Crane, whooping'' under ''BIRDS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
BIRDS							
*	*	*	*	*	*	*	
Crane, whooping	*Grus americana*	Canada, U.S.A. (Rocky Mountains east to Carolinas), Mexico.	Entire, except where listed as an experimental population.	E	1, 3	17.95(b)	NA
Do	.....do	.....do	U.S.A. (AL, AR, CO, FL, GA, ID, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, NM, OH, SC, TN, UT, VA, WI, WV, WY).	XN	487, 621, 710	NA	17.84(h)

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*

3. Amend § 17.84 by revising paragraphs (h)(1), (h)(2), (h)(4)(ii), (h)(4)(iii), (h)(4)(iv), (h)(5), (h)(6), (h)(8), (h)(9), and (h)(10), adding paragraph (h)(11), and adding a map at the end of paragraph (h) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(h) Whooping crane (*Grus americana*).

(1) The whooping crane populations identified in paragraphs (h)(9)(i) through (iii) of this section are nonessential experimental populations.

(2) No person may take this species in the wild in the experimental population areas except when such take is accidental and incidental to an otherwise lawful activity, or as provided in paragraphs (h)(3) and (4) of this section. Examples of otherwise lawful activities include, but are not limited to, agricultural practices, pesticide application, water management, construction, recreation, trapping, or hunting, when such activities are in full compliance with all applicable laws and regulations.

* * * * *

(4) * * *

(ii) Relocate a whooping crane that has moved outside the eastern U.S. population area identified in paragraph (h)(9)(iii) of this section, or the Kissimmee Prairie or Rocky Mountain range of the experimental populations, when removal is necessary or requested and is authorized by a valid permit under § 17.22;

(iii) Relocate whooping cranes within the experimental population areas to improve survival and recovery prospects;

(iv) Relocate whooping cranes from the experimental population areas into captivity;

* * * * *

(5) Any taking pursuant to paragraphs (h)(3) and (4) of this section must be immediately reported to the National Whooping Crane Coordinator, U.S. Fish and Wildlife Service, P.O. Box 100, Austwell, Texas 77950 (Phone: 361–286–3559), who, in conjunction with his counterpart in the Canadian Wildlife Service, will determine the disposition of any live or dead specimens.

(6) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any such species from the experimental populations taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations or the Endangered Species Act.

* * * * *

(8) The Service will not mandate any closure of areas, including National Wildlife Refuges, during hunting or conservation order seasons or closure or modification of hunting or conservation order seasons in the following situations:

(i) For the purpose of avoiding take of the nonessential experimental population identified in paragraph (h)(9)(iii) of this section;

(ii) If a clearly marked whooping crane from the nonessential experimental population identified in (h)(9)(iii) wanders outside the designated NEP area. In these situations, the Service will attempt to capture the stray bird and return it to the appropriate area if removal is requested by the State.

(9) All whooping cranes found in the wild within the boundaries listed in paragraphs (h)(9)(i) through (iii) of this section will be considered nonessential experimental animals. Geographic areas the nonessential experimental populations may inhabit include the following—

(i) The entire State of Florida. The reintroduction site is the Kissimmee Prairie portions of Polk, Osceola, Highlands, and Okeechobee Counties. Current information indicates that the Kissimmee Prairie is within the historic range of the whooping crane in Florida.

(A) No other natural populations of whooping cranes are likely to come into contact with the experimental population at Kissimmee Prairie. The only natural extant population, known as the Aransas/Wood Buffalo National Park population occurs well west of the Mississippi River. This population nests in the Northwest Territories and adjacent areas of Alberta, Canada, primarily within the boundaries of the Wood Buffalo National Park, and winters along the Central Texas Gulf of Mexico coast at Aransas National Wildlife Refuge. The only other extant eastern U.S. population is the nonessential experimental population described in paragraph (h)(9)(iii) of this section. Remnant individuals of the Rocky Mountain nonessential experimental population occur in the western United States as described in paragraph (h)(9)(ii) of this section.

(B) Whooping cranes adhere to ancestral breeding grounds, leaving little possibility that individuals from the extant Aransas/Wood Buffalo National Park population will stray into Florida or the Rocky Mountain Population. Studies of whooping cranes have shown that migration is a learned rather than an innate behavior. The experimental population released at Kissimmee Prairie is expected to remain mostly within the prairie region of central Florida.

(ii) The States of Colorado, Idaho, New Mexico, Utah, and the western half of Wyoming. Wooping cranes in this area do not come in contact with whooping cranes of the Aransas/Wood Buffalo Population; and

(iii) That portion of the eastern contiguous United States which includes the States of Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. (See map following paragraph (h)(11) of this section). Whooping cranes within this population are expected to occur mostly within the States of Wisconsin, Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida, which is within the historic range of the whooping crane in the United States. The additional States included within the experimental population area are those expected to receive occasional use by the cranes, or which may be used as breeding or wintering areas in the event of future population expansion. Whooping cranes in this population are not expected to come in contact with whooping cranes of the Aransas/Wood Buffalo National Park Population.

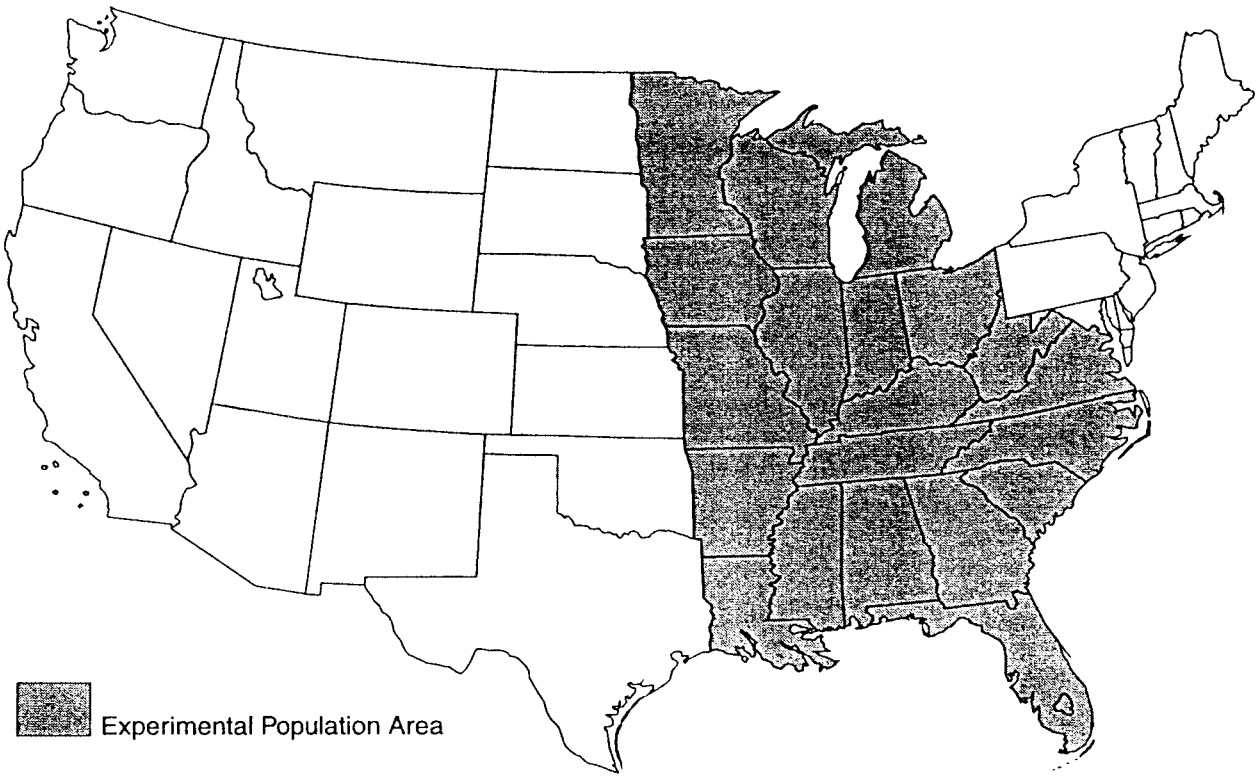
(10) The reintroduced populations will be monitored during the duration of the projects by the use of radio telemetry and other appropriate measures. Any animal that is determined to be sick, injured, or otherwise in need of special care will be recaptured to the extent possible by Service and/or State wildlife personnel or their designated agent and given appropriate care. Such animals will be released back to the wild as soon as

possible, unless physical or behavioral problems make it necessary to return them to a captive breeding facility.

(11) The status of the experimental populations will be reevaluated periodically to determine future management needs. This review will take into account the reproductive success and movement patterns of the individuals released within the experimental population areas.

BILLING CODE 4310–55–P

Whooping Crane Nonessential Experimental Population Area in the Eastern U.S.



BILLING CODE 4310–55–C

Dated: June 18, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–15791 Filed 6–25–01; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 061901D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Spring Commercial Red Snapper Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the spring portion of the annual commercial quota for red snapper will be reached on July 6, 2001. This closure is necessary to protect the red snapper resource.

DATES: Closure is effective noon, local time, July 6, 2001, until noon, local time, on October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone 727–570–5305, fax 727–570–5583, e-mail Phil.Steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 2001. The red snapper commercial fishing season is split into two time periods, the first commencing at noon on February 1 with two-thirds of the annual quota (3.10 million lb (1.41 million kg) available, and the second commencing at noon on October 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 10th of each month, until the applicable commercial quotas are reached.

Under 50 CFR 622.43 (a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the

available spring commercial quota of 3.10 million lb (1.41 million kg) for red snapper will be reached when the fishery closes at noon on July 6, 2001. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until noon, local time, on October 1, 2001. The operator of a vessel with a valid reef fish permit having red snapper aboard must have landed and bartered, traded, or sold such red snapper prior to noon, local time, July 6, 2001.

During the closure, the bag and possession limits specified in 50 CFR 622.39 (b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, the bag and possession limits for red snapper apply only when the recreational quota for red snapper has not been reached and the bag and possession limit has not been reduced to zero. The prohibition on sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to noon, local time, July 6, 2001, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43 (a) and is exempt from review under Executive Order 12866.

Dated: June 19, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–16017 Filed 6–25–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 061101A]

Atlantic Highly Migratory Species (HMS) Fisheries; Large Coastal, Pelagic, and Small Coastal Shark Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Fishing season notification.

SUMMARY: NMFS notifies eligible participants of the opening and closing of fishing seasons for Atlantic large coastal sharks (LCS), small coastal sharks (SCS), pelagic sharks, blue sharks, and porbeagle sharks.

DATES: The fishery opening for LCS is effective July 1, 2001; the LCS closure is effective from 11:30 p.m. local time August 31, 2001, through December 31, 2001. The available quota for SCS, pelagic sharks, blue sharks, and porbeagles sharks is effective July 1, 2001, through December 31, 2001, unless otherwise modified or superseded through notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Since 1997, NMFS has been involved in litigation with Southern Offshore Fishing Association (SOFA) and other commercial fishermen and dealers regarding the commercial regulations for the Atlantic shark fishery. NMFS and plaintiffs reached settlement in this litigation, and the United States District Court for the Middle District of Florida Tampa Division stipulated to this agreement in December 2000. On March 6, 2001, NMFS published an emergency rule implementing the 1997 LCS and SCS quotas and catch accounting/monitoring procedures consistent with the settlement agreement (66 FR 13441).

Additionally, the settlement agreement required NMFS to obtain an independent peer review of the 1998 LCS stock assessment. As of June 19, 2001, the reviews were not complete. Thus, based on the terms of the settlement agreement, the annual quotas for LCS and SCS will remain at the 1997 levels of 1,285 metric tons (mt) dressed weight (dw) and 1,760 mt dw, respectively. Also, per the settlement agreement, NMFS has implemented the 1999 HMS FMP annual quota levels for pelagic, blue, and porbeagle sharks of 488 mt dw, 273 mt dw, and 92 mt dw, respectively (66 FR 55; January 2, 2001).

Of the 642.5 mt dw available for the first semiannual LCS season, 587.5 mt dw was taken. NMFS is adding the remaining 55 mt dw to the available quota for the second semiannual 2001 fishing season. Although the settlement agreement did not include a specific procedure for a quota underharvest, such carryover to the next semiannual season was stipulated for any overharvest. Thus, this carryover of underharvest is consistent with the procedure outlined in the December 2000 settlement agreement entered into by NMFS and plaintiffs from the fishing industry. As such, the LCS quota for the 2001 second semiannual season is 697 mt dw. The SCS second semiannual quota for 2001 will remain at the 1997 level of 880 mt dw. The second 2001 semiannual quotas for pelagic, blue, and porbeagle sharks will be 244 mt dw, 136.5 mt dw, and 46 mt dw, respectively.

The prohibited species provisions will be enforced. A list of prohibited shark species can be found in Table 1 of Appendix A to part 635, subpart D. The limited access provisions for commercial harvests still apply, including trip limits for directed and incidental shark permit holders.

The second semiannual fishing season of the 2001 fishing year for the commercial fishery for LCS in the western north Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, will open July 1, 2001. To estimate the closure dates of the LCS, NMFS used the average daily catch rates for each species group from the second seasons from the years 1998, 1999, and 2000 while also considering the reporting dates of permitted shark dealers. The 1998 and 2000 data indicate that over 60 percent of the available quota could be taken by the end of July and 70 to 90 percent of the available quota could be taken within the first 2 weeks of August. In 1999, the second semiannual season was closed at the end of July and re-opened in September. Thus, 1999 catch rate data for August is not available and NMFS does not feel it appropriate at this time to use the catch rates from September and October to estimate a possible closure in August. July 1999 data indicate that only 30 percent of the available quota could be taken. However, NMFS was implementing limited access for the Atlantic shark and swordfish fisheries in July of 1999 and many fishermen, who would normally fish, may not have had the correct permits at that time. Accordingly, the Acting Assistant Administrator for Fisheries (AA) has determined that the LCS quota for the second 2001 semiannual season will likely be attained by August 31, 2001. Thus, the LCS fishery will close August 31, 2001, at 11:30 p.m. local time.

During a closure, retention of, fishing for, possessing or selling LCS are

prohibited for persons fishing aboard vessels issued a limited access permit under 50 CFR 635.4. The sale, purchase, trade, or barter of carcasses and/or fins of LCS harvested by a person aboard a vessel that has been issued a permit under 50 CFR 635.4 are prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure and were held in storage by a dealer or processor.

When quotas are projected to be reached for the SCS, pelagic, blue, or porbeagle shark fisheries, the AA will file notification of closure at the Office of the Federal Register at least 14 days before the effective date.

Those vessels that have not been issued a limited access permit under 50 CFR 635.4 may not sell sharks and are subject to the recreational size limits and retention limits specified at 50 CFR 635.20(e) and 635.22(c), respectively. The recreational fishery is not affected by any closure in the commercial fishery.

Classification

This action is taken under 50 CFR part 635 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 19, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–15872 Filed 6–21–01; 5:03 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 6, No. 123
Tuesday, June 26, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 159

RIN 1515–AC84

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations, to implement the Continued Dumping and Subsidy Offset Act of 2000, by prescribing the administrative procedures, including the time and manner, under which antidumping and countervailing duties assessed on imported products would be distributed to affected domestic producers as an offset for certain qualifying expenditures. This distribution to the affected producers is known as the continued dumping and subsidy offset.

DATES: Comments must be received on or before July 26, 2001.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jeffrey J. Laxague, Office of Regulations and Rulings, (202–927–0505).

SUPPLEMENTARY INFORMATION:

Background

Antidumping duties are imposed upon imported merchandise that the U.S. Department of Commerce has found is, or is likely to be, sold in the United States at less than its fair value. Countervailing duties are imposed upon imported merchandise that the Department of Commerce determines benefit from subsidies bestowed by a foreign government. In all antidumping cases, and in most countervailing duty cases, these duties are only assessed if the U.S. International Trade Commission determines that the imported goods cause material injury or the threat of material injury to a domestic industry. The rules and procedures concerning proceedings leading to orders or findings under which antidumping and countervailing duties are assessed are found in 19 U.S.C. 1671 *et seq.*, in part 207 of the regulations of the U.S. International Trade Commission (19 CFR chapter II, part 207), and in part 351 of the regulations of the International Trade Administration, U.S. Department of Commerce (19 CFR chapter III, part 351).

The Continued Dumping and Subsidy Offset Act of 2000 (''CDSOA'') was enacted on October 28, 2000, as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (''Act'') (Pub. L. 106–387; 114 Stat. 1549). The provisions of the CDSOA are contained in Title X (sections 1001–1003) of the Act.

The CDSOA, in section 1003 of the Act, amended Title VII of the Tariff Act of 1930, by adding a new section 754 (codified at 19 U.S.C. 1675c) in order to provide that assessed duties received pursuant to a countervailing duty order, an antidumping duty order, or an antidumping duty finding under the Antidumping Act of 1921, would be distributed by Customs to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such an antidumping duty order or finding, or countervailing duty order. This distribution is called the continued dumping and subsidy offset.

Affected Domestic Producers

An affected domestic producer eligible for a distribution of countervailing or antidumping duties assessed under an order or finding would include any manufacturer, producer, farmer, rancher or worker representative (including any association of such persons) that remained in operation, and that was a petitioner or an interested party that supported a petition for the issuance of an antidumping duty order, a finding under the Antidumping Act of 1921, or a countervailing duty order.

However, a company, business or person that had ceased production of the product covered by an order or finding could not be an affected domestic producer eligible to receive a distribution.

Also, a company, business or person would not be an affected domestic producer entitled to a distribution of assessed antidumping and countervailing duties if that company, business or person had been acquired by a company or business that was related to a company that had opposed the antidumping or countervailing duty investigation that led to the order or finding.

In this regard, as defined in section 754(b)(5) of the Tariff Act of 1930 (19 U.S.C. 1675c(b)(5)), a company, business or person would be considered to be related to another company, business or person if: (1) the company, business or person directly or indirectly controlled or was controlled by the other company, business or person; (2) a third party directly or indirectly controlled both companies, businesses or persons; or (3) both companies, businesses or persons directly or indirectly controlled a third party and there was reason to believe that the relationship caused the first company, business or person to act differently than a nonrelated party. As concerns items 1–3, one party would be considered to directly or indirectly control another party if the party was legally or operationally in a position to exercise restraint or direction over the other party.

List of Affected Domestic Producers

The U.S. International Trade Commission (USITC) is responsible for ascertaining and timely forwarding to Customs a list of the affected domestic producers in connection with each order or finding that would potentially be eligible to receive an offset. This list would consist of those petitioners for each order or finding as well as those parties that indicated support of a petition for the order or finding. The resolution of any dispute regarding a particular list of affected domestic producers in any given case would be the province of the USITC, and not Customs.

It is noted that the USITC has supplied Customs with an initial list of affected domestic producers for the approximately 400 individual antidumping and countervailing duty cases currently ongoing, comprising over 2,000 affected domestic parties

potentially eligible to receive an offset. This list has been posted on the Customs website (http://www.customs.gov/news/fed-reg/notices/dumping.pdf). Continued updates to this list will be processed as necessary.

Qualifying Expenditures for Which Distribution May Be Made

A qualifying expenditure by an affected domestic producer against which a distribution of assessed antidumping and countervailing duties could be made would encompass those expenditures that were incurred after the issuance of an antidumping duty order or finding or a countervailing duty order, provided that such expenditures fell within any of the following categories: manufacturing facilities; equipment; research and development; personnel training; acquisition of technology; health care benefits for employees paid for by the employer; pension benefits for employees paid for by the employer; environmental equipment, training, or technology; acquisition of raw materials and other inputs; and working capital or other funds needed to maintain production.

Customs Rulemaking

By this document, Customs proposes to amend the Customs Regulations to add a new subpart F to part 159 (19 CFR part 159, subpart F; §§ 159.61–159.64) that would principally prescribe the procedures, including the time and manner, and the required information necessary for the distribution of antidumping and countervailing duties assessed under an appropriate order or finding, that would be payable as a continued dumping and subsidy offset to those affected domestic producers for their qualifying expenditures, in accordance with section 754 of the Tariff Act of 1930, as amended (19 U.S.C. 1675c).

It is noted that 19 U.S.C. 1675c covers all antidumping and countervailing duty assessments made on or after October 1, 2000, in connection with all antidumping duty orders or findings, or countervailing duty orders, in effect as of January 1, 1999, or issued thereafter.

Notice of Intent To Distribute Offset

As a first step in the distribution process, at least 60 days prior to the end of a fiscal year, Customs would be responsible for publishing in the **Federal Register** a notice of intention to distribute the offset for that fiscal year, and including in the notice the list of affected domestic producers, based upon the list supplied by the USITC, that would be potentially eligible to receive the distribution.

The notice of intention to distribute the offset will also refer to: the case name and number of the particular order or finding concerned; and the instructions for filing a certification to claim a distribution.

Certifications

To obtain a distribution of the offset, each affected domestic producer would have to submit a certification under oath, in triplicate, or electronically as authorized by Customs, to the Assistant Commissioner, Office of Regulations and Rulings, Headquarters, or designee, that must be received within 60 days after the date of publication of the notice in the **Federal Register**, indicating that the producer desires to receive a distribution. The certification must demonstrate that the producer is eligible to receive a distribution as an affected domestic producer, and it must enumerate the qualifying expenditures incurred by the producer since the issuance of an order or finding for which a distribution has not previously been made.

More specifically, while there is no established format for a certification, the certification must identify the date of the **Federal Register** notice under which it is submitted, and the case name and the number of the particular order or finding cited in the **Federal Register** notice.

The certification must be executed and dated by a party legally authorized to bind the producer, and it must include the following identifying information: the name of the producer and any name qualifier, if applicable (for example, any other name under which the producer does business or is also known); the address of the producer (if a post office box, the secondary street address must also be included); the Internal Revenue Service (IRS) number (with suffix) of the producer, employer identification number, or social security number, as applicable; the specific business organization of the producer (corporation, partnership, sole proprietorship); and the name(s) of any individual(s) designated by the producer as the contact person(s) concerning the certification, together with the phone number(s) and/or facsimile transmission number(s) and electronic mail (email) address(es) for the person(s). Parties wishing to receive their disbursement via electronic payment must also include their financial institution's Transit Routing Identification Number and applicable Bank Account Number.

In addition, the certification must enumerate: the total amount of qualifying expenditures currently and previously certified by the producer, and the amount certified by category; the total amount of those expenditures for which there has been a prior distribution; and the net amount of the current claim (the total amount currently and previously certified minus the total amount for which there has been a previous distribution).

Furthermore, the certification must contain a statement that the producer desires to receive a distribution and is eligible to receive the distribution as an affected domestic producer. Also, the producer must affirm that the amount claimed as an offset does not involve any qualifying expenditures for which distribution has previously been made. Moreover, the statement must include information as to whether or not the producer has ceased to operate or has ceased production of the product covered by the particular order or finding under which the distribution is sought. Additionally, the producer must state whether or not it has been acquired by a company or business that is related to a company, as defined in section 754(b)(5), Tariff Act of 1930 (19 U.S.C. 1675c(b)(5)), that opposed the antidumping or countervailing duty investigation that resulted in the order or finding under which the distribution is sought. If any of the foregoing conditions are not met, the producer would not qualify as an affected domestic producer.

Customs is especially interested in receiving public comment as to whether it should adopt the position that the name of the certifying producer and the total amount being certified will be considered information available for disclosure to the public.

A certification that is submitted and timely received in response to a notice of distribution may be reviewed before acceptance to ensure that all informational requirements are complied with and that any amounts set forth in the certification for current and prior qualifying expenditures, including the amount claimed for distribution, appear to be correct. A certification that is found to be incorrect or incomplete will be returned to the producer and the deficiencies will be identified. It is the sole responsibility of the producer to ensure that the certification is correct, complete and satisfactory so as to demonstrate the entitlement of the producer to the distribution requested. Failure to ensure that a correct, complete and satisfactory certification is filed within 60 days after the date of publication of the notice in the **Federal**

Register will result in the producer not receiving a distribution.

Verification

Customs reserves the right to determine whether certifications will be verified through audit or otherwise. Because certifications may be subject to verification, parties are required to maintain records supporting their claims for a period of three years after the filing of the certification.

Special Accounts, Clearing Accounts

As directed in the legislation (19 U.S.C. 1675c(e)), Customs will establish a Special Account for each antidumping duty order or finding or countervailing duty order, into which antidumping or countervailing duties liquidated pursuant to the order or finding will be deposited.

To facilitate this process, Customs is also establishing a Clearing Account into which all estimated antidumping or countervailing duties will initially be deposited, that are collected under an entry, but that are not yet available for distribution because their liquidation has not been achieved. However, once antidumping or countervailing duties are liquidated, these duties will be transferred from the Clearing Account to the Special Account established for that order or finding. When transferred to the appropriate Special Account, the antidumping or countervailing duties will be considered to be received by Customs and distributions will be made from that Special Account.

Interest on Special Accounts, Clearing Accounts

In accordance with Federal appropriations law, and Treasury guidelines on Special Accounts governed by this law, funds in such accounts are not interest-bearing unless specified by Congress. Likewise, funds being held in Clearing Accounts are not interest-bearing unless specified by Congress. Therefore, no interest will accrue in these accounts. However, if there is interest paid by the importer on any antidumping or countervailing duties billed in the liquidation process for the import entries, that interest will be transferred to the Clearing Account or Special Account, as appropriate.

Distribution of Assessed Duties Received as Continued Dumping and Subsidy Offset

Under 19 U.S.C. 1675c(c), the Commissioner of Customs is authorized to prescribe procedures for distributing the continued dumping and subsidy offset. Section 1675c(c) also requires that this distribution be made, not later than 60 days after the first day of a fiscal year, from those antidumping or countervailing duties assessed and received during the preceding fiscal year. In the same vein, 19 U.S.C. 1675c(d)(3) authorizes the Commissioner to distribute all funds from assessed duties received in the preceding fiscal year.

Antidumping and countervailing duties are assessed on imported merchandise as instructed by the U.S. Department of Commerce (Commerce), 19 U.S.C. 1671e(a)(1) and 1673e(a)(1), such assessment to occur within six months after Customs receives notice from Commerce of the removal of a suspension of liquidation required by statute or court order under 19 U.S.C. 1504(d). These statutory provisions distinguish assessments of antidumping or countervailing duties from the mere deposit of estimated duties which occurs at entry. *See, e.g.,* 19 U.S.C. 1671e(a)(3) and 1673e(a)(3)).

When instructed by Commerce, Customs assesses the final amount of antidumping or countervailing duties accruing on an entry for imported merchandise, which is accomplished by liquidating the subject entry. 19 U.S.C. 1500. The term ''liquidation'' is defined in this context as the final computation or ascertainment of the duties accruing on an entry. 19 CFR 159.1.

In brief, antidumping or countervailing duties accruing on imported merchandise are not assessed until each entry covering the merchandise is liquidated. Prior to liquidation, any estimated antidumping or countervailing duties that may have been deposited on an entry are first placed into the Clearing Account and are not available for distribution. Once an entry has been liquidated, the estimated antidumping or countervailing duties in the Clearing Account for that entry are assessed and then received by Customs into the appropriate Special Account.

Once assessed and received into a Special Account, duties will become available for distribution as part of the continued dumping and subsidy offset and will be distributed within 60 days of the beginning of the following fiscal year. In the case of entries that are reliquidated at lower antidumping or countervailing rates than originally liquidated, the difference will be refunded to importers from funds in the corresponding Clearing Account and/or Special Account during subsequent fiscal years. If Customs determines that funds in the Clearing Account or Special Account are insufficient to support a refund, affected domestic producers who previously received distributions under the Special Account will be billed. The amount of each affected domestic producer's bill will be directly proportional to the total offset amount previously received. Customs will use all available collection methods to collect outstanding bills, including, but not limited to, administrative offset. Interest will begin to accrue on unpaid bills beginning 30 days from the bill date.

When entries are reliquidated at higher rates than originally liquidated, importers will be billed for the difference. These duties will be distributed within 60 days of the beginning of the following fiscal year in which they were received into the Special Account.

If the total amount of the net claims contained in certifications filed under a given notice of distribution does not exceed the amount of the offset available for distribution in a given fiscal year, the certified net claim for each affected producer will be paid, and the balance remaining will be returned to the Clearing Account, where it will be retained for the sole purpose of future importer refunds. In the alternative, if the net claims exceed the available offset for a fiscal year, such offset will be subject to a pro rata allocation to each of the affected domestic producers based upon the total of the net claims certified.

Finally, before the last distribution may be made under an order or finding that has terminated, all remaining entries covered by the order or finding must have been finally liquidated, no longer subject to reliquidation, and all duties assessed under the entries must have been fully collected (19 U.S.C. 1675c(e)(4)(B)). Any funds remaining in the Special Account following the final distribution will be transferred to the General Fund.

Illustrations of the Process for Distributing the Offset

To demonstrate the process of distributing the continued dumping and subsidy offset, the following illustrations are provided:

I. For entries of merchandise, subject to antidumping and countervailing duty (AD/CVD) orders, that are imported prior to the October 1, 2000, effective date for CDSOA:

A. If the entries are liquidated prior to 10–1–2000, there is no offset disbursement of the AD/CV duties.

Example: Merchandise was entered in July 1999, and was liquidated in September 2000.

B. If the entries are liquidated after 10–1–2000, the liquidated AD/CV duties will be disbursed.

1. For no change liquidation and partial refund liquidations: the liquidated AD/CV duties will be disbursed, based on the fiscal year of the date of liquidation.

Example: Merchandise was entered in August 1999, and was liquidated in November 2000. The AD/CVD duties will be disbursed no later than November 2001.

2. For liquidations that bill additional duty and interest: The total amount of liquidated AD/CV duties and the interest paid will be disbursed. The amount of AD/CV duty already collected by Customs at the time of liquidation will be disbursed based on the fiscal year of the date of liquidation. The additional AD/CV duty and interest paid will be disbursed based on the fiscal year of the date of payment.

Example: Merchandise was entered in September 2000, and was liquidated in September 2001. The AD/CV duties already collected at the time of liquidation will be disbursed no later than November 2001. If the bill for additional duties and interest is paid in December 2001, those funds will be disbursed no later than November 2002.

II. For entries of merchandise, subject to AD/CVD orders, that are imported after 10–1–2000:

A. For no change liquidations and partial refund liquidations: the liquidated AD/CV duties will be disbursed, based on the fiscal year of the date of liquidation.

Example: Merchandise was entered in December 2000, and was liquidated in January 2002. The liquidated AD/CV duties will be disbursed no later than November 2002.

1. For liquidations that bill additional AD/CV duties and interest: the total liquidated AD/CV duties and interest paid will be disbursed. The amount of AD/CV duties already collected by Customs at the time of liquidation will be disbursed based on the fiscal year of the date of liquidation. The additional AD/CV duty and interest paid will be disbursed based on the fiscal year of the date of payment.

Example: Merchandise was entered in May 2001, and was liquidated in August 2002. The AD/CV duties already collected at the time of liquidation will be disbursed no later than November 2002. If the additional AD/CV duty and interest is paid in November 2002, those funds will be disbursed no later than November 2003.

III. For entries of merchandise, imported after 10–1–2000, that are subject to terminated AD/CVD orders: All AD/CV duties and interest collected pursuant to the final liquidation instructions for a terminated case will be disbursed, but only after all liquidations are final and all claims have been settled; this will not occur in the fiscal year of liquidation, but in a subsequent fiscal year.

Example: Merchandise imported in May 2002, the case is terminated in July 2003, and the entry is liquidated in August 2003. Final AD/CV duties will be disbursed no sooner than August 2004, assuming no claims are pending on that entry or that case.

Refunds Due Importers Based on Reliquidations

Until the liquidation of an entry becomes final, the duties assessed on the entry may be subject to reliquidation as the result of 19 U.S.C. 1501, 1514, 1520, or court order. Such a reliquidation would operate as a new liquidation and an abandonment of any prior liquidation of the amount of the duties due.

Consequently, should liquidated duties that have been distributed to affected domestic producers thereafter be subject to a reliquidation that results in a refund of duties being due to an importer, such refund will be made to the importer from duties that are deposited in the Clearing Account and/or the Special Account established for that order or finding, as described below, during the next fiscal year immediately following the fiscal year in which the distributed duties were liquidated. However, for the last fiscal year during which a Special Account is established under an order or finding, and prior to the termination of the Special Account, no final distribution may be made from this Account until all remaining entries covered by the order or finding have been finally liquidated, and are no longer subject to reliquidation, and all duties assessed under the entries have been fully collected or properly accounted for by Customs (19 U.S.C. 1675c(e)(4)(B)).

Overpayment of Distribution to Affected Domestic Producer

Any overpayment of a distribution made by Customs to an affected domestic producer will be subject to billing and other collection methods, including, but not limited to, administrative offsets resulting from a reliquidation.

Distribution Final and Conclusive on All Parties

Except in the case of an overpayment made by Customs to an affected domestic producer, any distribution from a Special Account established under section 1675c(e)(1) for an antidumping duty order or finding, or a countervailing duty order, that is made by Customs in accordance with section 1675c(d)(3) to an affected domestic producer, based upon the certification that this producer has filed, will be final and conclusive on the affected domestic producer.

Annual Report

Although it is not mandated in the legislation (19 U.S.C. 1675c), Customs intends to issue an annual report on the disbursements. This report will be available to the public via the Customs website.

Comments

Before adopting this proposal, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, as already stated above, Customs is especially interested in receiving public comment as to whether it should adopt the position that the name of the certifying producer and the total amount being certified will be considered information available for disclosure to the public. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Regulatory Flexibility Act and Executive Order 12866

The proposed amendments would implement the terms and conditions of the Continued Dumping and Subsidy Offset Act of 2000, which applies to antidumping and countervailing duties assessed on or after October 1, 2000. Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Nor do the proposed amendments meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). This collection of information is contained in § 159.63. This information

is necessary in order to enable, and to expedite, the distribution of the continued dumping and subsidy offset to the affected domestic producers. The likely respondents and/or recordkeepers are domestic business organizations, such as manufacturers, producers, ranchers, farmers and worker representatives (including associations of such persons).

Estimated total annual reporting and/or recordkeeping burden: One hour.

Estimated average annual burden per respondent/recordkeeper: One hour.

Estimated number of respondents and/or recordkeepers: One.

Estimated annual frequency of responses: One.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229. Comments should be submitted within the same time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) Whether the collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, would be appropriately revised upon adoption of the proposal as a final rule.

List of Subjects in 19 CFR Part 159

Antidumping (Liquidation of duties), Countervailing duties (Liquidation of duties), Customs duties and inspection, Liquidation of entries for merchandise.

Proposed Amendments to the Regulations

It is proposed to amend part 159, Customs Regulations (19 CFR part 159), as set forth below.

PART 159—LIQUIDATION OF DUTIES

1. The general authority citation for part 159 continues to read as follows, and it is proposed to add an authority citation for Subpart F to read as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624. * * * Subpart F also issued under 19 U.S.C. 1675c.

* * * * *

2. It is proposed to amend part 159 by adding a new subpart F to read as follows:

Sec.

Subpart F—Continued Dumping and Subsidy Offset

§ 159.61 General.
§ 159.62 Notice of Distribution.
§ 159.63 Certifications.
§ 159.64 Distribution of offset.

Subpart F—Continued Dumping and Subsidy Offset

§ 159.61 General.

(a) *Continued dumping and subsidy offset.* Under section 754 of the Tariff Act of 1930, as amended by Pub. L. 106–387, 114 Stat. 1549 (19 U.S.C. 1675c), known as the Continued Dumping and Subsidy Offset Act of 2000, assessed duties received on or after October 1, 2000 under a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921, will be distributed, as provided under this subpart, to affected domestic producers for certain qualifying expenditures that these affected domestic producers incur after the issuance of such an antidumping duty order or finding, or countervailing duty order. This distribution is called the continued dumping and subsidy offset.

(b) *Affected domestic producer defined.* Except as otherwise provided in paragraphs (b)(1) and (b)(2) of this section, an ''affected domestic producer'' under paragraph (a) of this section means any manufacturer, producer, farmer, rancher or worker representative (including any association of such persons) that remains in operation, and that was a petitioner or an interested party that supported a petition concerning an antidumping duty order, a finding under the Antidumping Act of 1921, or a countervailing duty order that was entered. It is the responsibility of the U.S. International Trade Commission (USITC) to ascertain and timely forward to Customs a list of the domestic producers potentially eligible to receive a distribution in connection with each order or finding.

(1) *Product no longer produced.* A company, business or person that has ceased production of the product covered by the antidumping duty order or finding, or countervailing duty order, is not an affected domestic producer under this section.

(2) *Acquisition by related company.* (i) *Related company defined.* A company, business or person is not an affected domestic producer if that company, business, or person has been acquired by another company or business that is related to a company that opposed the antidumping or countervailing duty investigation that led to the order or finding. For purposes of this paragraph, a company, business or person is related to another company, business or person if:

(A) The company, business or person directly or indirectly controls or is controlled by the other company, business or person;

(B) A third party directly or indirectly controls both companies, businesses or persons; or

(C) Both companies, businesses or persons directly or indirectly control a third party and there is reason to believe that the relationship causes the first company, business or person to act differently than a nonrelated party.

(ii) *Control of one party by another.* For purposes of paragraphs (b)(2)(i)(A) through (b)(2)(i)(C) of this section, one party would be considered to directly or indirectly control another party if the party was legally or operationally in a position to exercise restraint or direction over the other party.

(c) *Qualifying expenditures.* A qualifying expenditure which may be offset by a distribution of assessed antidumping and countervailing duties encompasses those expenditures that are incurred after the issuance of an antidumping duty order or finding or a countervailing duty order, provided that such expenditures fall within any of the following categories:

(1) Manufacturing facilities;

(2) Equipment;

(3) Research and development;

(4) Personnel training;

(5) Acquisition of technology;

(6) Health care benefits for employees paid for by the employer;

(7) Pension benefits for employees paid for by the employer;

(8) Environmental equipment, training, or technology;

(9) Acquisition of raw materials and other inputs; and

(10) Working capital or other funds needed to maintain production.

§ 159.62 Notice of distribution.

(a) *Publication of notice.* At least 60 days before the end of a fiscal year, Customs will publish in the **Federal Register** a notice of intention to

distribute assessed duties received as the continued dumping and subsidy offset for that fiscal year. The notice will include the list of domestic producers, based upon the list supplied by the USITC (see § 159.61(b)), that would be potentially eligible to receive the distribution.

(b) *Content of notice.* The notice of intention to distribute the offset will also contain the following:

(1) The case name and number of the particular order or finding concerned; and

(2) The instructions for filing the certification under § 159.63 in order to claim a distribution.

§ 159.63 Certifications.

(a) *Requirement and purpose for certification.* In order to obtain a distribution of the offset, each affected domestic producer must submit a certification, in triplicate, or electronically as authorized by Customs, to the Assistant Commissioner, Office of Regulations and Rulings, Headquarters, or designee, that must be received within 60 days after the date of publication of the notice in the **Federal Register**, indicating that the affected domestic producer desires to receive a distribution. The certification must enumerate the qualifying expenditures incurred by the domestic producer since the issuance of an order or finding for which a distribution has not previously been made, and it must demonstrate that the domestic producer is eligible to receive a distribution as an affected domestic producer.

(b) *Content of certification.* While there is no established format for a certification, the certification must identify the date of the **Federal Register** notice under which it is submitted, and the case name and the number of the particular order or finding cited in the **Federal Register** notice. The certification must be executed and dated by a party legally authorized to bind the domestic producer and state that the information contained in the certification is true and accurate to the best of the certifier's knowledge and belief.

(1) *Identifying information for domestic producer.* The certification must include the following identifying information related to the domestic producer:

(i) The name of the domestic producer and any name qualifier, if applicable (for example, any other name under which the domestic producer does business or is also known);

(ii) The address of the domestic producer (if a post office box, the secondary street address must also be included);

(iii) The Internal Revenue Service (IRS) number (with suffix) of the domestic producer, employer identification number, or social security number, as applicable;

(iv) The specific business organization of the domestic producer (corporation, partnership, sole proprietorship);

(v) The name(s) of any individual(s) designated by the domestic producer as the contact person(s) concerning the certification, together with the phone number(s) and/or facsimile transmission number(s) and electronic mail (email) address(es) for the person(s); and

(vi) The Transit Routing Identification Number of the financial institution and applicable Bank Account Number for the domestic producer (if disbursement is sought via electronic payment).

(2) *Amount of claim.* In calculating the amount of the distribution being claimed as an offset, the certification must enumerate the following:

(i) The total amount of qualifying expenditures currently and previously certified by the domestic producer, and the amount certified by category (see § 159.61(c)(1)–(10));

(ii) The total amount of those expenditures which have been the subject of any prior distribution under section 754, Tariff Act of 1930, as amended (19 U.S.C. 1675c); and

(iii) The net amount for new and remaining qualifying expenditures being claimed in the current certification (the total amount currently and previously certified as noted in paragraph (b)(2)(i) of this section minus the total amount the subject of any prior distribution as noted in paragraph (b)(2)(ii) of this section).

(3) *Statement of eligibility to receive distribution.* The certification must contain a statement that the domestic producer desires to receive a distribution and is eligible to receive the distribution as an affected domestic producer. The domestic producer must affirm that the net amount certified for distribution does not encompass any qualifying expenditures for which distribution has previously been made (see paragraphs (b)(2)(ii) and (b)(2)(iii) of this section). Further, the statement must include information as to whether the domestic producer remains in operation and continues to produce the product covered by the particular order or finding under which the distribution is sought (see § 159.61(b)(1)). In addition, the domestic producer must state whether it has been acquired by a company or business that is related to a company, within the meaning of § 159.61(b)(2)(i)(A)–(C), that opposed the antidumping or countervailing duty investigation that resulted in the order or finding under which the distribution is sought.

(c) *Review and correction of certification.* A certification that is submitted in response to a notice of distribution and received within 60 days after the date of publication of the notice in the **Federal Register** may be reviewed before acceptance to ensure that all informational requirements are complied with and that any amounts set forth in the certification for current and prior qualifying expenditures, including the amount claimed for distribution, appear to be correct (see paragraph (b)(2) of this section). A certification that is found to be incorrect or incomplete will be returned to the domestic producer. It is the sole responsibility of the domestic producer to ensure that the certification is correct, complete and satisfactory so as to demonstrate the entitlement of the domestic producer to the distribution requested. Failure to ensure that certification is correct, complete and satisfactory within 60 days after the date of publication of the notice of distribution in the **Federal Register** will result in the domestic producer not receiving a distribution.

(d) *Verification of certification; supporting records.* Customs reserves the right to determine whether certifications will be verified through audit or otherwise. Because certifications may be subject to verification, parties are required to maintain records supporting their claims for a period of three years after the filing of the certification.

§ 159.64 Distribution of offset.

(a) *The creation of Special Accounts and Clearing Accounts.*

(1) *Special Accounts.* As directed in the legislation (19 U.S.C. 1675c(e)), Customs will establish Special Accounts for each antidumping duty order or finding or countervailing duty order, into which funds will be transferred as set out in paragraph (b) of this section. All distributions to affected domestic producers will be made from the Special Accounts.

(2) *Clearing Accounts.* In order to properly manage and account for dumping and subsidy offsets, as well as any requisite refunds to importers, Customs will also establish Clearing Accounts. All estimated antidumping and countervailing duties received pursuant to an antidumping or countervailing order or finding in effect on January 1, 1999, or thereafter, will be deposited into a Clearing Account.

(b) *Distribution of assessed duties received from the Special Accounts; refunds resulting from reliquidation or court action; and overpayments to affected domestic producers.*

(1) *Distribution of assessed duties received from the Special Accounts.*

(i) No later than 60 days after the end of a fiscal year, Customs will distribute the assessed duties transferred from the Clearing Accounts and received into the Special Accounts for purposes of distribution. The amount distributed shall be referred to as the dumping and subsidy offset;

(ii) Transfers from the Clearing Accounts to the Special Accounts will be made by Customs throughout the fiscal year. Transfers will occur between a Clearing Account and a Special Fund Account when an entry upon which antidumping or countervailing duties are owed is properly liquidated pursuant to an order, finding or receipt of liquidation instructions;

(iii) The amount transferred at liquidation to the Special Account will be dependent upon the amount actually collected on the entry and in the Clearing Account. Following liquidation, additional transfers will be made on the liquidated entry to the corresponding Special Account, as additional antidumping or countervailing duties owing are collected.

(2) *Refunds resulting from reliquidation or court action.* If any of the underlying entries composing a prior distribution should reliquidate for a refund, such refund will be recovered, to the extent possible, from the corresponding Clearing Account and/or Special Account balances available for refund or distribution. Similarly, refunds to importers resulting from any court action involving those entries will also be recovered, to the extent possible, from corresponding Clearing Account and/or Special Account balances available for refund or distribution.

(3) *Overpayments to affected domestic producers.* Overpayments to affected domestic producers resulting from subsequent reliquidations and/or court actions and determined by Customs to be not otherwise recoverable from the corresponding Clearing Account or Special Account as set out in paragraph (b)(2) of this section will be collected from the affected domestic producers. The amount of each affected domestic producer's bill will be directly proportional to the total dumping and subsidy offset amounts that that affected domestic producer previously received under the related Special Account. All available collection methods will be used by Customs to collect outstanding bills, including but not limited to, administrative offset. Interest will begin to accrue on unpaid bills 30 days from the bill date.

(c) *Payment of certified claims.*

(1) If the total amount of the certified net claims filed by affected domestic producers does not exceed the amount of the offset available for distribution in the corresponding Special Account, the certified net claim for each affected domestic producer will be paid in full. Any balance that remains in a Special Account after an annual distribution has occurred will be transferred back into the appropriate Clearing Account. Funds transferred back to the appropriate Clearing Account will not be available for future distributions to affected domestic producers. Rather, those amounts will be available to Customs to pay refunds owed to importers due to reliquidations and/or court action. Funds transferred back to the Clearing Account and not paid out to importers will be transferred to the General Fund when the corresponding Special Account is terminated in accordance with paragraph (d) of this section.

(2) If the certified net claims exceed the dumping and subsidy offset amount available in the corresponding Special Account, such offset will be made on a pro rata basis based on each affected domestic producer's total certified claim.

(3) In any case where the distribution is not for the entire certified qualifying expenditure submitted by an affected domestic producer, the Customs Service will, at the time of payment, provide a written notification explaining the reason for the entire amount not being paid. If the affected domestic producer believes that the reduction was the result of clerical error or mistake by Customs, it must file a request for reconsideration within 10 business days to the address given in the notification. After considering the matter, the Customs Service will notify the party requesting reconsideration of its decision. However, any adjustments will be made only from funds remaining in the account for that case in the current or future fiscal years, but will be paid prior to any future distributions.

(d) *Final distribution and termination of the Special Account.*

(1) A Special Account will be terminated and a final distribution will occur when:

(i) The order or finding with respect to which the account was established has terminated; and

(ii) All entries relating to the order or finding are liquidated, all outstanding amounts collected or properly accounted for by Customs, all related protests, petitions, and court actions fully concluded, and all refunds due to importers on the underlying entries are paid in full.

(2) Once the requisite requirements set out in paragraph (d)(1) of this section have been met, notice of a final distribution will be issued pursuant to § 159.62.

(3) Amounts not timely claimed under the notice of final distribution will be permanently deposited into the General Fund of the Treasury.

(e) *Interest on Special Accounts and Clearing Accounts.* In accordance with Federal appropriations law, and Treasury guidelines on Special Accounts, funds in such accounts are not interest-bearing unless specified by Congress. Likewise, funds being held in Clearing Accounts are not interest-bearing unless specified by Congress. Therefore, no interest will accrue in these accounts. However, statutory interest charged on antidumping and countervailing duties at liquidation, will be transferred to the Clearing Account or Special Account, as appropriate, when collected from the importer.

(f) *Distribution final and conclusive.* Except as provided in paragraphs (b)(3) and (c)(3) of this section, any distribution made to an affected domestic producer under this section shall be final and conclusive on the affected domestic producer.

(g) *Annual report.* Although it is not mandated in the law (19 U.S.C. 1675c), Customs will issue an annual report on the disbursements. This report will be available to the public via the Customs website.

Approved: June 21, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

Charles W. Winwood,

Acting Commissioner of Customs.

[FR Doc. 01–16020 Filed 6–25–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–055]

RIN 2115–AA97

Safety Zone: Sister Bay Marinafest 2001, Sister Bay, WI.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in Sister Bay, Sister Bay, Wisconsin for the Sister Bay Marinafest 2001 fireworks celebration. This action is necessary to ensure the safety of life and property in the immediate vicinity of the fireworks launch platform during this event. This action is intended to restrict vessel traffic to the Sister Bay marina.

DATES: Comments and related material must reach the Coast Guard on or before July 26, 2001.

ADDRESSES: You may mail comments and related material to the Commanding Officer, U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207. Marine Safety Office Milwaukee maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Milwaukee between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Chief of Port Operations, U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD09–01–055], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 81/2 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Milwaukee at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This safety zone is necessary to safeguard the public from the hazards associated with storing, preparation and launching of the Sister Bay Marinafest fireworks display off of Sister Bay marina, Sister Bay, Wisconsin. Based on recent accidents that have occurred in other Captain of the Port Zones, and the explosive hazard associated with these events, the Captain of the Port has determined that fireworks launches in close proximity to watercraft pose a significant risk to safety and property.

The combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling in to the water could easily result in serious injuries or fatalities.

Establishing safety zones by notice and comment rulemaking gives the public an opportunity to comment on the proposed zones and provides better notice than promulgating temporary final rules.

Discussion of Proposed Rule

The Coast Guard is proposing a safety zone by Sister Bay marina, Sister Bay, Wisconsin. The safety zone would encompass all waters bounded by the arc of a circle with a 420-foot radius, centered approximately at 45° 10.60′ N, 087° 06.60′ W. The Coast Guard will notify the public, in advance, by way of Ninth Coast Guard District Local Notice to Mariners, marine information broadcasts, and for those who request it from Marine Safety Office Milwaukee, by facsimile (fax).

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This determination is based on the minimal time that vessels will be restricted from the zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of commercial vessels intending to transit, moor or anchor in a portion of the activated safety zone.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: this rule would be in effect for less than an hour and a half on the day of the event. Vessel traffic can safely pass outside of the proposed safety zone during the event. Although the safety zone for the event will encompass the entire navigation channel, traffic would be allowed to pass through the safety zone with permission of the Captain of the Port Milwaukee, or his designated on scene Patrol Commander.

If you think your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (see **ADDRESSES**).

Collection of Information

This proposed rule would call for no new collection of information under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T09–926 is added to read as follows:

§ 165.T09–926 Safety Zone, Waters off Sister Bay Marina, Sister Bay, Wisconsin

(a) *Location.* The following area is a Safety Zone:

(1) The safety zone will encompass all waters bounded by the arc of a circle with a 420-foot radius with its center in approximate position 45° 10.60′ N, 087° 06.60′ W, located off Sister Bay marina.

(b) *Effective Dates and Times.* This safety zone is effective on September 1st, 2001 from 8:30 p.m. to 10:00 p.m. (CST).

(c) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, entry into this zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port or his duly appointed representative.

(2) The ''duly appointed representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Milwaukee, Wisconsin to act on his behalf. The representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the Safety Zone shall contact the Captain of the Port or his representative to obtain permission to do so. Vessel operators given permission to enter or operate in the Safety Zone shall comply with all directions given to them by the Captain of the Port or his representative.

(4) The Captain of the Port may be contacted by telephone via the Command Duty Officer at (414) 747–7155 during working hours. Vessels assisting in the enforcement of the Safety Zone may be contacted on VHF–FM channels 16 or 21A. Vessel operators may determine the restrictions in effect for the safety zone by coming alongside a vessel patrolling the perimeter of the Safety Zone.

(5) Coast Guard Group Milwaukee will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the Safety Zone and restriction imposed.

Dated: June 15, 2001.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port Milwaukee.

[FR Doc. 01–15999 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–037]

RIN 2115–AA97

Safety Zone; Kalamazoo Lake, Saugatuck, Michigan

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone for a fireworks display on Kalamazoo Lake, Saugatuck, Michigan. This action is necessary to provide for the safety of life and property on navigable waters during this event. This action is intended to restrict vessel traffic in a portion of Kalamazoo Lake.

DATES: Comments and related material must reach the Coast Guard on or before July 11, 2001.

ADDRESSES: You may mail comments and related material to: Commanding Officer, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60521. Marine Safety Office Chicago maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at MSO Chicago between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Chicago, Illinois 60521, (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD09–01–037], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to MSO Chicago at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish a temporary safety zone that will be activated for a fireworks display. The proposed safety zone will include the waters of Kalamazoo Lake bounded by the arc of a circle with a 1000-foot radius with its center in approximate position 42° 38′52.5″ N, 086° 12′18.15″ W (NAD 1983).

Based on recent accidents that have occurred in other Captain of the Port zones and the explosive hazard associated with this event, the Captain of the Port has determined that fireworks launches in close proximity to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement within a 1000-foot radius of the fireworks launch platform will help ensure the safety of persons and property at these events and help minimize the associated risk.

Establishing temporary safety zones by notice and comment rulemaking gives the public the opportunity to comment on the proposed zones, provides better notice than promulgating temporary rules annually, and decreases the amount of annual paperwork required for these events. The Coast Guard has not previously received notice of any impact caused by these events.

Discussion of Proposed Rule

The proposed size of this safety zone was determined using National Fire Protection Association and local area fire department standards, combined with the Coast Guard's knowledge of waterway conditions in these areas.

The proposed safety zone would be in effect from 8 p.m. (local) to 11:30 p.m. (local), July 28, 2001. Vessels may only enter, remain in, or transit through this safety zone during this time frame if authorized by the Captain of the Port Chicago, or designated on scene Coast Guard patrol personnel, as provided for in 33 CFR 165.23.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zones, and all of the zones are in areas where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for a few hours on the day of the event. Vessel traffic can safely pass outside the proposed safety zone during the events. In cases where traffic congestion is greater than expected, traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Chicago. Before the effective period, we will issue maritime advisories widely available to users of the Port of Chicago by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made. Additionally, the Coast Guard has not received any negative reports from small entities affected during these displays in previous years.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business,

organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Chicago (see **ADDRESSES.**)

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34 (g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add section 165.T09–925 to read as follows:

§ 165.T09–925 Safety Zone: Kalamazoo Lake, Saugatuck, MI

(a) The following area is designated a safety zone:

(i) *Location.* The waters of Kalamazoo Lake bounded by the arc of a circle with a 1000-foot radius with its center in the middle of the fireworks launch barge, in approximate position 42° 38′52.5″ N, 086° 12′18.15″ W (NAD 1983).

(ii) *Effective dates.* This regulation is effective from 8 p.m. (local) to 11:30 p.m. (local) on July 28, 2001.

(b) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

Dated: May 24, 2001.

R.E. Sebald,

Captain, U.S. Coast Guard, Captain of the Port Chicago.

[FR Doc. 01–16019 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA242–0240; FRL–7002–9]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a disapproval of revisions to the Imperial County Air Pollution Control District's (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern visible emissions (VE) from many different sources of air pollution. We are proposing action on Rule 401—Opacity of Emissions, a local rule regulating different emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 26, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1226.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the ICAPCD and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	401	Opacity of Emissions	09/14/99	05/26/00

On October 6, 2000, EPA found this rule submittal met the completeness criteria in 40 CFR part 51, appendix V. These criteria must be met before formal EPA review may begin.

B. Are There Other Versions of the Rule?

The SIP contains two rules with requirements and provisions similar to submitted Rule 401: Rule 401—Opacity of Emissions and Rule 402—Exemptions. EPA incorporated these rules within the SIP on February 3, 1989. We are acting on the latest and only state submittal of Rule 401.

C. What is the Purpose of the Submitted Rule Revision?

This rule limits the emissions of visible air contaminants of any type; usually, but not always particulate matter from combustion sources and industrial sites. Specifically, Rule 401 prohibits emissions beyond a defined opacity standard. ICAPCD's September 14, 1999 amendments consolidate SIP Rules 401 and 402 within a single rule format. Revised Rule 401 includes by reference exemptions taken from the California Health and Safety Code at sections 41701.5, 41704, 41800, and 42350. The TSD has more detailed information about these amendments.

II. EPA's Evaluation and Action

A. How is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must meet Reasonably Available Control Measure (RACM) requirements for nonattainment areas (see section 189), and must not relax existing requirements (see sections 110(l) and 193). The ICAPCD regulates an PM nonattainment area (see 40 CFR part 81), so Rule 401 must fulfill RACM.

Guidance and policy documents that we used to define specific enforceability requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

B. Does the Rule Meet the Evaluation Criteria?

This rule is partially consistent with the relevant policy and guidance regarding enforceability and RACM. Also, a single rule format provides for a clearer presentation of VE requirements. However, there are rule provisions which do not meet the evaluation criteria. These provisions are summarized below and discussed further in the TSD.

C. What Are the Rule's Deficiencies?

Certain provisions of Rule 401 conflict with section 110 and part D of the Act and prevent full approval of the SIP revision. First, given the section 189 RACM requirement, Rule 401 should not grandfather existing sources as it does at section B.3. Secondly, California has not submitted the sections of the Health and Safety Code (HSC) cited in section C for SIP inclusion. Consequently, EPA can neither review, nor act on these incorporations by reference. While one remedy would be to include desired exemptions within the rule, they would again be subject to EPA review and approval. Finally, section 42350 of the HSC allows for variances to a district's opacity limits. We object to these variance provisions because they provide broad discretion to modify the SIP in violation of CAA sections 110(i), 110(l), and 193.

D. EPA Recommendations to Further Improve the Rule

We have no recommended rule revisions that do not affect EPA's current action; these revisions would be recommended for the next time the local agency modifies the rule.

E. Proposed Action and Public Comment

As authorized in sections 110(l) and 301(a) of the Act, EPA is proposing a disapproval of Rule 401. If finalized, this action will preserve the versions of Rule 401 & 402 approved in 1989 already within the federally approved SIP. These rules will remain federally enforceable. As a result, this disapproval action does not trigger sanctions or Federal Implementation Plan time clocks under section 179 of the CAA.

We will accept comments from the public on this proposed disapproval for the next 30 days.

III. Background Information

Why Was This Rule Submitted?

Visible emission rules with their opacity standards are basic components of an air quality regulation program and a general RACM requirement for PM–10 regulations. Section 110(a) of the CAA requires states to submit regulations that control VE emissions. Table 2 lists some of the national milestones leading to the submittal of this local agency VE rule.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
December 10, 1993	Section 189(a)(1)(C) requires that PM–10 nonattainment areas implement all reasonably available control measures (RACM) by this date.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

D. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

EPA's proposed disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100

million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401, *et seq.*

Dated: June 8, 2001.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 01–16004 Filed 6–25–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–B–7414]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance Administration and Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, § *67.4*

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

BILLING CODE 6718–04–P

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD)		Communities affected
		Effective	Modified	
Kansas **Johnson County and Incorporated Areas**				
Tomahawk Creek	Approximately 3,500 feet upstream of confluence with Indian Creek.	*849	*850	City of Leawood, City of Overland Park, City of Olathe.
	Approximately 1,600 feet downstream of Roe Avenue.	*865	*866	
	Just downstream of Pflumm Road	*1,005	*1,007	
	Approximately 4,800 feet upstream of Pflumm Road.	None	*1,034	
Tributary No. 2	At confluence with Tomahawk Creek	None	*853	City of Leawood.
	Approximately 1,200 feet upstream of Confluence with Tomahawk Creek.	None	*859	
Tributary No. 3	At confluence with Tomahawk Creek	None	*859	City of Leawood.
	Approximately 1,300 feet upstream of confluence with Tomahawk Creek.	None	*860	
Tributary No. 4	At confluence with Tomahawk Creek	None	*864	City of Leawood.
	Approximately 1,500 feet upstream of confluence with Tomahawk Creek.	None	*866	
Tributary No. 5	At confluence with Tomahawk Creek	None	*872	City of Leawood.
	Approximately 1,200 feet upstream of Confluence with Tomahawk Creek.	None	*874	
Tributary No. 6	At confluence with Tomahawk Creek	None	*872	City of Overland Park.
	Approximately 1,850 feet upstream of Confluence with Tomahawk Creek.	None	*881	
Tributary No. 7	At confluence with Tomahawk Creek	None	*881	City of Overland Park.
	Just downstream of Metcalf Avenue	None	*929	
Tributary No. 8	At confluence with Tomahawk Creek	None	*885	City of Overland Park.
	Approximately 1,000 feet upstream of Confluence with Tomahawk Creek.	None	*888	
Tributary No. 9	At confluence with Tomahawk Creek	None	*890	City of Overland Park.
	Approximately 1,360 feet upstream of Tomahawk Creek.	None	*900	
Tributary No. 10	At confluence with Tomahawk Creek	None	*900	City of Overland Park.
	Approximately 1,100 feet upstream of Foster Street.	.....	*935	
Tributary No. 11	At confluence with Tomahawk Creek	None	*906	City of Overland Park.
	Approximately 1,380 feet upstream of Confluence with Tomahawk Creek.	None	*912	
Tributary No. 12	At confluence with Tomahawk Creek	None	*912	City of Overland Park.
	Approximately 4,700 feet upstream of Antioch Road.	None	*955	
Tributary No. 12B1	At confluence with Tomahawk Creek Tributary No. 12.	None	*920	City of Overland Park.
	Approximately 2,450 feet upstream of Confluence with Tomahawk Creek.	None	*938	
Tributary No. 13	At confluence with Tomahawk Creek	None	*929	City of Overland Park.
	Approximately 900 feet upstream of 148th Street.	None	*984	
Tributary No. 13B1	At confluence with Tomahawk Creek Tributary No. 13.	None	*935	City of Overland Park.
	Just downstream of Antioch Road	None	*935	
Tributary No. 13E1	At confluence with Tomahawk Creek Tributary No. 13.	None	*964	City of Overland Park.
	Approximately 500 feet upstream of Switzer Road.	None	*978	
Tributary No. 13F1	At confluence with Tomahawk Creek Tributary No. 13.	None	*979	City of Overland Park.
	Approximately 1,100 feet upstream of Confluence with Tomahawk Creek Tributary No. 13.	None	*989	
Tributary No. 17	At confluence with Tomahawk Creek	None	*977	City of Overland Park.
	Approximately 610 feet upstream of Confluence with Tomahawk Creek.	None	*981	
Tributary No. 18	At confluence with Tomahawk Creek	None	*989	City of Overland Park.
	Approximately 1,100 feet downstream of 143rd Street.	None	*997	
Tributary No. 19	At confluence with Tomahawk Creek	None	*1,000	City of Overland Park.
	Approximately 630 feet upstream of Confluence with Tomahawk Creek.	None	*1,003	
Tributary No. 20	At confluence with Tomahawk Creek	None	*1,011	City of Olathe, City of Overland Park.

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD)		Communities affected
		Effective	Modified	
	Approximately 300 feet upstream of Confluence with Tomahawk Creek.	None	*1,011	
	At confluence with Tomahawk Creek	None	*1,012	City of Olathe.
Tributary No. 21	Approximately 760 feet upstream of Confluence with Tomahawk Creek.	None	*1,014	

ADDRESSES

Johnson County (Unincorporated Areas)

Maps are available for inspection at the Department of Planning, Development and Codes, 111 South Cherry, Suite 3500, Olathe, Kansas.

Send comments to The Honorable Annabeth Surbaugh, Chairman, Johnson County Board of Commissioners, 111 South Cherry, Suite 3300, Olathe, Kansas 66061.

City of Leawood

Maps are available for inspection at the Planning Services Department, 4800 Town Center Drive, Leawood, Kansas.

Send comments to The Honorable Peggy Dunn, Mayor, City of Leawood, 4800 Town Center Drive, Leawood, Kansas 66211.

City of Olathe

Maps are available for inspection at the Planning Department, 100 West Santa Fe, Olathe, Kansas.

Send comments to The Honorable Larry Campbell, Mayor, City of Olathe, P.O. Box 768, Olathe, Kansas 66051–0768.

City of Overland Park

Maps are available for inspection at City Hall, 8500 Santa Fe Drive, Overland Park, Kansas.

Send comments to The Honorable Ed Eilert, Mayor, City of Overland Park, 8500 Santa Fe Drive, Overland Park, Kansas 66313.

TEXAS

Bexar County and Incorporated Areas

Culebra Creek	At confluence with Leon Creek	*772	*773	Bexar County (Uninc. Areas), City of San Antonio.
	At Culebra Road	*848	*849	
	Just downstream of Galm Road	*951	*952	
Culebra Creek Split:				
No. 1	At confluence with Culebra Creek	None	*796	Bexar County (Uninc. Areas), City of San Antonio.
	Approximately 830 feet upstream of Tezel Road.	None	*808	
No. 2	At confluence with Culebra Creek (Approximately 200 feet upstream of Tezel Road).	None	*810	Bexar County (Uninc. Areas).
	Approximately 3,620 feet upstream of Timberwilde.	None	*827	
No. 3	At confluence with Culebra Creek (Approximately 1,530 feet downstream of Charles W. Anderson Loop).	None	*853	Bexar County (Uninc. Areas), City of San Antonio.
	At Charles W. Anderson Loop	None	*865	
French Creek	Approximately 1,500 feet upstream of Clyde Dent.	None	*806	Bexar County (Uninc. Areas), City of San Antonio.
	Approximately 1,040 feet downstream of Mainline Drive.	None	*832	
	At Charles W. Anderson Drive	*938	*936	
	Approximately 800 feet upstream of Circle North Trail.	None	*980	
Helotes Creek (at San Antonio) ...	At confluence with Culebra Creek	*852	*853	Bexar County (Uninc. Areas). City of San Antonio.
	At Leslie Road	*914	*915	
	Approximately 320 feet upstream of Bandera Road.	*1,003	*997	
Huebner Creek	Approximately 220 feet upstream of Ingram Road.	*763	*765	Bexar County (Uninc. Areas), City of San Antonio, City of Leon Valley.
	At Huebner Road	*843	*841	
	Approximately 320 feet upstream of DeZavala Road.	None	*966	
Huesta Creek	At confluence with Leon Creek	*911	*915	Bexar County (Uninc. Areas), City of San Antonio.
	Approximately 2,050 feet upstream of Charles W. Anderson Drive.	*1,013	*1,006	
Leon Creek	At U.S. Highway 90	*696	*693	Bexar County (Uninc. Areas), City of San Antonio.
	At U.S. Route 161	*733	*736	
	Approximately 2,450 feet downstream of Route 16.	*824	*824	

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD)		Communities affected
		Effective	Modified	
	Approximately 1,100 feet upstream of Charles W. Anderson Drive.	*991	*993	
Leon Creek Overflow	Approximately 1,125 feet downstream of West Prue Road.	*888	*888	Bexar County (Uninc. Areas), City of San Antonio.
	At Babcock Road	*920	*918	
	Approximately 60 feet downstream of West Hausman Road.	*953	*953	
Maverick Creek (Babcock Tributary).	At confluence with Leon Creek	*913	*916	Bexar County (Uninc. Areas), City of San Antonio.
	At Seco Creek Street	*1,010	*1,014	
	Approximately 1,750 feet upstream of Babcock Road.	None	*1,137	
Tributary B to Culebra Creek	At confluence with Culebra Creek	None	*920	Bexar County (Uninc. Areas).
	Approximately 50 feet downstream of Galm Road.	None	*950	

ADDRESSES

Bexar County (Unincorporated Areas)

Maps are available for inspection at the Bexar County Public Works Department, 233 N. Pecos, Suite 420, San Antonio, Texas.
Send comments to The Honorable Cyndi Taylor Krier, Bexar County Judge, 100 Dolorosa, Suite 101, San Antonio, Texas 78205

City of Leon Valley

Maps are available for inspection at the Leon Valley City Hall, 6400 El Verde Road, San Antonio, Texas.
Send comments to The Honorable Marcy Meffert, Mayor, City of Leon Valley, 6400 El Verde Road, San Antonio, Texas 78328.

City of San Antonio

Maps are available for inspection at Municipal Plaza, 114 W. Commerce, Seventh Floor, San Antonio, Texas.
Send comments to The Honorable Howard W. Peak, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3996.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: June 18, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance Administration and Mitigation.

[FR Doc. 01–15926 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–04–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Docket No. FEMA–B–7416

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance Administration and Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, § *67.4*

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
California	Contra Costa County (Unincorporated Areas).	Murderer's Creek	At Pleasant Hill Road	None	*145
			Approximately 210 feet upstream of Withers Avenue.	None	*148
Maps are available for inspection at the Public Works Department, 255 Glacier Drive, Martinez, California.					
Send comments to The Honorable Gayle B. Uilkema, Chairman, Contra Costa County Board of Supervisors, c/o Clerk of the Board, 651 Pine Street, Martinez, California 94553.					
	Pleasant Hill (City) Contra County.	East Fork Grayson Lane ..	At Gregory Creek	None	*51
			Just upstream of Oak Park Boulevard	None	*72
		Murderer's Creek	At confluence with East Fork Grayson Creek.	None	*51
			Approximately 3,000 feet upstream of Frontage Road.	None	*135
Maps are available for inspection at the Public Works Department, 100 Gregory Lane, Pleasant Hill, California.					
Send comments to The Honorable Suzanne Angeli, Mayor, City of Pleasant Hill, 100 Gregory Lane, Pleasant Hill, California 94523.					
	Walnut Creek (City) Contra Costa County.	East Fork Grayson Creek	Approximately 280 feet upstream of Oak Park Boulevard (in City of Pleasant Hill).	None	*73
			Approximately 150 feet downstream of Sunnyvale Avenue.	None	*83
		Eccelston Avenue Tributary.	At confluence with East Fork Grayson Creek.	None	*80
			Just downstream of Putnam Road	None	*87
Maps are available for inspection at the Community Development Department, 1666 North Main Street, Walnut Creek, California.					
Send comments to The Honorable Kathy Hicks, Mayor, City of Walnut Creek, c/o City Manager, P.O. Box 8039, Walnut Creek, California 94596.					
Colorado	Florence (City) Fremont County.	Oak Creek	Approximately 1,500 feet downstream of West Third Street.	*5,170	*5,166
			Just upstream of Denver & Rio Grande Western Railroad.	*5,197	*5,194
		Oak Creek Right Overbank.	Approximately 170 feet upstream of West Seventh Street.	None	*5,156
			Just upstream of Denver & Rio Grande Western Railroad.	None	*5,192
Maps are available for inspection at 300 West Main Street, Florence, Colorado.					
Send comments to The Honorable Gene Roeder, Mayor, City of Florence, 131 West Third Street, Florence, Colorado 81226.					
North Dakota	Durbin (Township) Cass County.	Maple River	Approximately 3,000 feet downstream of west bound Interstate 94.	None	*907
			Approximately 2,400 feet upstream of east bound Interstate 94.	None	*908
Maps are available for inspection at the Office of the Township Chairman, 3768–157 R Avenue, Southeast, Casselton, North Dakota.					
Send comments to The Honorable Gerald Moderow, Chairman, Durbin Township Board, P.O. Box 1000, Casselton, North Dakota 58012.					
	Mapleton (City) Cass County.	Maple River	Northeast corner of City of Mapleton Corporate Limits.	*904	*903
			Along Interstate 94 within City of Mapleton Corporate Limits.	*908	*907

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at 1042 14th Avenue, Suite 101, West Fargo, North Dakota.					
Send comments to The Honorable Kate Olsen, Mayor, City of Mapleton, P.O. Box 9, Mapleton, North Dakota 58059.					
	Raymond (Township) (Cass County).	Maple River	At middle of eastern edge of Section 30 in Township 140 North Range 50 West.	None	*903
			At southwestern corner of Section 30 in Township 140 North Range 50 West.	None	*904
Maps are available for inspection at the Office of the Zoning Administration, 16365 33rd Street, Southeast, Mapleton, North Dakota.					
Send comments to The Honorable Jim Hagenson, Chairman, Raymond Township Board, 16620 33rd Street, Southeast, Harwood, North Dakota 58042.					
Washington	Prescott (City) Walla Walla County.	Whetstone Gulch Overflow	Approximately 100 feet downstream of A Street.	None	*1,036
			Approximately 40 feet upstream of Fourth Street.	None	*1,040
		Mill Slough	Just upstream of C Street	None	*1,038
			Approximately 2,950 feet upstream of C Street.	None	*1,049
		Mill Slough	Just upstream of G Street	None	*1,043
		Overflow	Approximately 1,140 feet upstream of G Street.	None	*1,051
Maps are available for inspection at City Hall, 110 D Street, Prescott, Washington.					
Send comments to The Honorable Chuck Carruthers, Mayor, City of Prescott, P.O. Box 27, Prescott, Washington 99348.					
	Walla Walla County (Unincorporated Areas).	Mill Slough	Just upstream of C Street	None	*1,038
			Just downstream of Hart Road	None	*1,062
		Whetstone Gulch Overflow	Approximately 40 feet upstream of Fourth Street.	None	*1,040
			Approximately 1,530 feet upstream of Fourth Street.	None	*1,048
Maps are available for inspection at the Walla Walla County Regional Planning Office, 310 West Poplar, Suite 001, Walla Walla, Washington.					
Send comments to The Honorable David G. Carey, Chairman, Walla Walla County Board of Commissioners, P.O. Box 1506, Walla Walla, Washington 99362.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: June 18, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance Administration and Mitigation.

[FR Doc. 01–15927 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 32

[CC Docket No. 00–199; DA 01–1403]

Phase 2 of the Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; comments requested.

SUMMARY: In this document the Commission is seeking supplemental comment in the Phase 2 Comprehensive Review of the Accounting and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers. This document expressly seek comment on additions, consolidations, or eliminations of accounts on the attached list of Class A and Class B accounts. One of the goals of the comprehensive review proceeding is to update our accounting system based on changes in the marketplace and in technology.

DATES: Written comments by the public are due on or before July 16, 2001, reply comments are due on or before July 26, 2001.

ADDRESSES: Federal Communications Commission, 445–12th Street, SW, TW–A325, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mika Savir, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0384 or Andrew Mulitz, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0827.

SUPPLEMENTARY INFORMATION: On October 18, 2000, the Commission released a Notice of Proposed Rulemaking in CC Docket No. 00–199, 65 FR 67675 (November 18, 2000), seeking comment on, *inter alia*, changes to our Part 32 Uniform System of Accounts (''USOA''). One of the goals in this comprehensive review proceeding is to update our accounting system based on changes in the marketplace and in technology. Based on our review of the specific accounts and comments filed in this proceeding, we now wish to focus the record on streamlining the Commission's Class A and Class B accounts, as shown in the attachment to this document. We expressly seek comment on additions, consolidations, or eliminations of accounts on this proposed list.

Comments are due on the attached proposal July 16, 2001. Reply comments are due on or before July 26, 2001. Comments may be filed using the

Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Ernestine Creech, Room 6–C317, Accounting Safeguards Division, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 00–199, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of any possible significant economic impact on small entities by the policies and rules proposed in this document. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this document, which are set out in the document. The Commission will send a copy of this document, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, this document and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

The Commission has initiated this proceeding to determine whether it should streamline or modify the current accounting and reporting requirements. This document seeks comment on further reducing the accounting requirements for incumbent local exchange carriers.

B. Legal Basis

The legal basis for the action as proposed for this rulemaking is contained in sections 4(i), 4(j), 11, 201(b), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 161, 201(b), 303(r), and 403.

C. Description and Estimate of the Number of Small Entities to which the Proposed Action May Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. To estimate the number of small entities that may be affected by the proposed rules, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. It seems certain that some of these carriers are not independently owned and operated, but we are unable at this time to estimate with greater precision the number of wireline carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs that may be affected by the proposed rules, if adopted.

The proposed changes to the accounting requirements in this document, which are reductions in the Commission's accounting requirements, could affect all incumbent local exchange carriers. Some of these companies may be considered ''small entities'' under the SBA definition. Therefore, it is possible that some of the 2,295 small entity telephone companies

may be affected by the proposals in this document.

D. Description of Proposed Reporting, Recordkeeping, and Other Compliance Requirements

This document seeks to further reduce accounting requirements for all incumbent local exchange companies. These proposals, if adopted, would result in fewer accounting requirements for all incumbent local exchange carriers, including small entities.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c).

The rule changes proposed in this document are reductions in our accounting requirements for all incumbent local exchange carriers. Our proposals, if adopted, would streamline the accounting rules and would significantly lessen regulatory requirements for all carriers, including small entities. This should produce a significant economic benefit to small entities. Alternatives considered for small entities subject to our accounting and reporting requirements were to maintain our current rules or to consider changes proposed in this document on a case-by-case basis in ongoing proceedings where related accounting changes may properly be considered within the scope of such proceedings. Streamlining our current rules will reduce regulatory burdens on carriers, including small entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rule

None.

Federal Communications Commission.

Kenneth P. Moran,

Chief, Accounting Safeguards Division, Common Carrier Bureau.

Attachment A

Part 32 Class Accounts (Proposed)

1120 Cash and equivalents
1170 Receivables
1171 Allowances for doubtful accounts
1220 Inventories
—Materials and supplies
—Property held for sale or lease
1280 Prepayments
1350 Other current assets
1406 Nonregulated investments
—Permanent investment
—Receivable/payable
—Current net income or loss
1410 Noncurrent assets
1437 Deferred tax regulatory asset
1438 Other deferred charges
1500 Other jurisdictional assets—net
2001 Telecommunications plant in service
2002 Property held for future telecommunications use
2003 Telecommunications plant under construction
2005 Telecommunications plant adjustment
2006 Nonoperating plant
2007 Goodwill
2111 Land
2112 Motor vehicles
2113 Aircraft
2114 Tools and other work equipment
2121 Buildings
2122 Furniture
2123 Office equipment
—Office support equipment
—Company communications equipment
2124 General purpose computers
2211 Non-digital switching
2212 Digital electronic switching
—Circuit
—Packet
2213 Optical switching
—Circuit
—Packet
2220 Operator system
2231 Radio system
2232 Circuit equipment
—Electronic
—Optical
2311 Station apparatus
2321 Customer premises wiring
2341 Large private branch exchanges
2351 Public telephone terminal equipment
2362 Other terminal equipment
2411 Poles
2421 Aerial cable
—Nonmetallic cable
—Metallic cable
2422 Underground cable
—Nonmetallic cable
—Metallic cable
2423 Buried cable
—Nonmetallic cable
—Metallic cable
2426 Intrabuilding network cable
—Nonmetallic cable
—Metallic cable
2431 Aerial wire
2441 Conduit systems
2681 Capital leases
2682 Leasehold improvements
2690 Intangibles
—Network Software
—Other
3100 Accumulated depreciation
3200 Accumulated depreciation—held for future telecommunications use
3300 Accumulated depreciation—nonoperating
3410 Accumulated amortization—capitalized leases
4000 Current accounts and notes payable
4070 Income taxes—accrued
4080 Other taxes—accrued
4100 Net current deferred operating income taxes
4110 Net current deferred nonoperating income taxes
4130 Other current liabilities
4200 Long term debt and funded debt
4300 Other long-term liabilities and deferred credits
4320 Unamortized operating investment tax credits—net
4330 Unamortized nonoperating investment taxcredits—net
4340 Net noncurrent deferred operating income taxes
4341 Net deferred tax liability adjustments
4350 Net noncurrent deferred nonoperating income taxes
4361 Deferred tax regulatory liability
4370 Other jurisdictional liabilities & deferred credits—net
4510 Capital stock
4520 Additional paid-in-capital
4530 Treasury stock
4540 Other Capital
4550 Retained earnings
5000 Basic local service revenue
5080 Network access revenue
5081 End user revenue
5082 Switched access revenue
5083 Special access revenue
5086 Interconnection revenue
—UNE revenue
—Resale revenue
—Reciprocal Compensation revenue
—Other Interconnection revenue
5090 USF support revenue
5105 Long distance message revenue
5200 Miscellaneous revenue
5280 Nonregulated operating revenue
5300 Uncollectible revenue
6112 Motor vehicle expense
6113 Aircraft expense

6114 Tools and other work equipment expense
6121 Land & building expense
6122 Furniture & artworks expense
6123 Office equipment expense
6124 General purpose computers expense
6210 Central office switching expenses
6211 Non-digital expense
6212 Digital electronic expense
—Circuit
—Packet
6213 Optical expense
—Circuit
—Packet
6220 Operator systems expense
6231 Radio systems expense
6232 Circuit equipment expense
—Electronic
—Optical
6311 Station apparatus expense
6341 Large private branch exchange expense
6351 Public telephone terminal equipment expense
6362 Other terminal equipment expense
6411 Poles expense
6421 Aerial cable expense
—Nonmetallic cable
—Metallic cable
6422 Underground cable expense
—Nonmetallic cable
—Metallic cable
6423 Buried cable expense
—Nonmetallic cable
—Metallic cable
6426 Intrabuilding network cable expense
—Nonmetallic cable
—Metallic cable
6431 Aerial wire expense
6441 Conduit systems expense
6510 Property held for future telecommunications use expense
6512 Provisioning expense
6531 Power expense
6532 Network administration expense
6533 Testing expense
6534 Plant operations administration expense
6535 Engineering expense
6540 Access expense
6551 Interconnection expense
—UNE expense
—Resale expense
—Reciprocal Compensation expense
—Other interconnection expense
6554 USF support expense
6560 Depreciation & amortization expenses
6610 Marketing
6620 Customer services
6720 General and administrative
7100 Other operating income & expenses
7200 Operating taxes
7210 Operating investment tax credits net
7220 Operating federal income taxes
7230 Operating state and local income taxes
7240 Operating other taxes
7250 Provision for deferred operating income taxes—net
7300 Nonoperating income & expense
7400 Nonoperating taxes
7500 Interest and related items
7600 Extraordinary items—net
7910 Income effect of jurisdictional ratemaking differences—net
7990 Nonregulated net income
Account Total—178

Attachment B

Part 32 Class B Accounts (Proposed)

1120 Cash and equivalents
1170 Receivables
1171 Allowance for doubtful accounts
1220 Inventories
—Materials and supplies
—Property held for sale or lease
1280 Prepayments
1350 Other current assets
1406 Nonregulated investments
—Permanent investment
—Receivable/payable
—Current net income or loss
1410 Other noncurrent assets
1437 Deferred tax regulatory asset
1438 Other deferred charges
1500 Other jurisdictional assets—net
2001 Telecommunications plant in service
2002 Property held for future telecommunications use
2003 Telecommunications plant under construction
2005 Telecommunications plant adjustment
2006 Nonoperating plant
2007 Goodwill
2110 Land and support assets
2210 Central Office—Switching
2220 Operator systems
2230 Central office—Transmission
2310 Information origination/ termination
2410 Cable and wire facilities
2680 Amortizable tangible assets
2690 Intangibles
3100 Accumulated depreciation
3200 Accumulated depreciation—Held for future telecommunications use
3300 Accumulated depreciation—nonoperating
3410 Accumulated amortization—capital leases
4000 Current accounts and notes payable
4070 Income taxes—accrued
4080 Other taxes—accrued
4100 Net current deferred operating income taxes
4110 Net current deferred operating income taxes
4130 Other current liabilities
4200 Long term funded debt
4300 Other long-term liabilities and deferred credits
4320 Unamortized operating investment tax credits—net
4330 Unamortized nonoperating investment tax credits—net
4340 Net noncurrent deferred operating income taxes
4341 Net deferred tax liability adjustments
4350 Net noncurrent deferred nonoperating income taxes
4361 Deferred tax regulatory liability
4370 Other jurisdictional liabilities and deferred credits—net
4510 Capital stock
4520 Additional paid-in-capital
4530 Treasury stock
4540 Other capital
4550 Retained earnings
5000 Basic local service revenue
5080 Network access revenue
5081 End user revenue
5082 Switched access revenue
5083 Special access revenue
5086 Interconnection revenue
5090 USF support revenue
5105 Long distance message revenue
5200 Miscellaneous revenue
5280 Nonregulated operating revenue
5300 Uncollectible revenue
6110 Network support expense
6120 General support expenses
6210 Central office switching expense
6220 Operator system expense
6230 Central office transmission expenses
6310 Information origination/ termination expense
6410 Cable and wire facilities expenses
6510 Other property, plant and equipment expenses
6530 Network operations expenses
6540 Access expense
6551 Interconnection expense
6554 USF support expense
6560 Depreciation and amortization expenses
6610 Marketing
6620 Services
6720 General and administrative
7100 Other operating income and expense
7200 Operating taxes
7300 Nonoperating taxes
7500 Interest and related items
7600 Extraordinary items
7910 Income effect of jurisdictional ratemaking deferrences—net
7990 Nonregulated net income
Account Totals—89

[FR Doc. 01–15832 Filed 6–25–01; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1437; MM Docket No. 01–79; RM–10088]

Radio Broadcasting Services; Lordsburg and Deming, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses a petition filed on behalf of Runnels Broadcasting System, LLC, licensee of Station KQTN, Lordsburg, New Mexico, proposing the reallotment of Channel 250C to Deming, New Mexico, and modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Petitioner withdrew its interest in pursuing the proposal. *See* 66 FR 17843, April 4, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 01–79, adopted June 6, 2001 , and released June 15, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Federal Communications Commission

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–15974 Filed 6–25–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1393; MM Docket No. 01–123, RM–10139; MM Docket No. 01–124; RM–10140]

Radio Broadcasting Services; Darien, GA; and Pearsall, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes two allotments. The Commission requests comments on a petition filed by Bernice P. Hedrick proposing the allotment of Channel 262A at Darien, Georgia, as the community's second local FM transmission service. Channel 262A can be allotted to Darien in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.8 kilometers (6.1 miles) northeast to avoid a short-spacing to the licensed site of Station WOBB(FM), Channel 262C, Tifton, Georgia. The coordinates for Channel 262A at Darien are 31–26–32 North Latitude and 81–22–32 West Longitude. The Commission requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 227A at Pearsall, Texas, as the community's third local FM transmission service. Channel 227A can be allotted to Pearsall in compliance with the Commission's minimum distance separation requirements with a site restriction of 12 kilometers (7.4 miles) west of the community. The coordinates for Channel 227A at Pearsall are 28–54–16 North Latitude and 99–12–59 West Longitude.

DATES: Comments must be filed on or before July 30, 2001, and reply comments on or before August 14, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: H. David Hedrick, P.O. Box 27, Gray, Georgia 31032 (Consultant for Bernice P. Hedrick); and Charles Crawford, 4553 Bordeaux Ave., Dallas, Texas 75205 (Petitioner for Pearsall, Texas).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–123 and MM Docket No. 01–124, adopted May 30, 2001, and released June 8, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–15976 Filed 6–25–01; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 66, No. 123
Tuesday, June 26, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Senior Executive Service: Membership of Performance Review Board

ACTION: Notice.

SUMMARY: The Performance Review Board will initiate their labors on or about June 28, 2001. The following persons are members of the Performance Review Board for 2001.

Members

Corbett M. Flannery, Chair
Arnold J. Haiman, SES Member
Michael G. Kitay, SES Member
Adrienne R. Rish, SES Member
Franklin C. Moore, SES Member
John L. Wilkinson, SES Member

FOR FURTHER INFORMATION CONTACT: Mary Anne Conboy, 202–712–5438.

Dated: June 14, 2001.

Henry W. Reynolds,

Executive Secretary, Executive Resources Board.

[FR Doc. 01–16008 Filed 6–25–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Annual List of Newspapers To Be Used by the Alaska Region for Publication of Legal Notices of Proposed Actions and Notices of Decisions Subject to Administrative Appeal Under 36 CFR Parts 215 and 217

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that Ranger Districts, Forests, and the Regional Office of the Alaska Region will use to publish legal notice of all decisions subject to appeal under 36 CFR parts 215 and 217, and to publish notices for public comment on actions subject to the notice and comment provisions of 36 CFR part 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notice of actions subject to public comment and decisions subject to appeal under 36 CFR parts 215 and 217, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers begins on July 1, 2001. This list of newspapers will remain in effect until it is superseded by a new list, published in the **Federal Register**.

ADDRESSES: Robin Dale, Alaska Region Appeal Coordinator; Forest Service, Alaska Region; PO Box 21628; Juneau, Alaska 99802–1628.

FOR FURTHER INFORMATION CONTACT: Robin Dale, Alaska Region Appeal Coordinator, (907) 586–9344.

SUPPLEMENTARY INFORMATION: This notice provides the list of newspapers that Responsible Officials in the Alaska Region will use to give notice of decisions subject to notice, comment, and appeal under 36 CFR part 215, and that Deciding Officers in the Alaska Region will use to give legal notice of decisions subject to appeal under 36 CFR part 217. The timeframe for comment on a proposed action shall be based on the date of publication of the notice of the proposed action in the principal newspaper. The timeframe for appeal under 36 CFR parts 215 and 217 shall be based on the date of publication of the legal notice of the decision in the principal newspaper.

The newspapers to be used for giving notice of Forest Service decisions in the Alaska Region are as follows:

Alaska Regional Office

Decisions of the Alaska Regional Forester: Juneau Empire, published daily except Saturday and official holidays in Juneau, Alaska; and the Anchorage Daily News, published daily in Anchorage, Alaska.

Chugach National Forest

Decisions of the Forest Supervisor and District Rangers: Anchorage Daily News, published daily in Anchorage, Alaska.

Tongass National Forest

Decisions of the Forest Supervisor: Juneau Empire, published daily except Saturday and official holidays in Juneau, Alaska.

Decisions of the Craig District Ranger, the Ketchikan/Misty District Ranger, and the Thorne Bay District Ranger: Ketchikan Daily News, published daily except Sundays and official holidays in Ketchikan, Alaska.

Decisions of the Admiralty Island National Monument Ranger, the Juneau District Ranger, the Hoonah District Ranger, and the Yakutat District Ranger: Juneau Empire, published daily except Saturday and official holidays in Juneau, Alaska.

Decisions of the Petersburg District Ranger: Petersburg Pilot, published weekly in Petersburg, Alaska.

Decisions of the Sitka District Ranger: Daily Sitka Sentinel, published daily except Saturday, Sunday, and official holidays in Sitka, Alaska.

Decisions of the Wrangell District Ranger: Wrangell Sentinel, published weekly in Wrangell, Alaska.

Supplemental notices may be published in any newspaper, but the timeframes for making comments or filings appeals will be calculated based upon the date that notices are published in the newspapers of record listed in this notice.

Dated: June 7, 2001.

James A. Caplan,

Acting Regional Forester.

[FR Doc. 01–15940 Filed 6–25–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Integrated Treatment of Noxious and Invasive Weeds Within the Coconino, Kaibab, and Prescott National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement to document the analysis and disclose the effects of implementation of an integrated treatment of noxious and invasive weeds within the Coconino, Kaibab, and Prescott National Forests.

The proposed action would authorize the annual treatments of 2,000 acres per

year to a projected high of 10,000 acres per year scattered throughout the three national forests, depending on budget. The majority of treatments will be found along major travel corridors (e.g. railroads, interstates, and state highways as well as Level 3 or 4 roads on the Forests) and within the ponderosa pine vegetation zone in the Verde and Little Colorado watersheds. If approved, project operations will begin in the spring or summer of 2002, and would continue for the next five-to-ten years, barring any significant, environmental changes. Efforts will be made to coordinate annual programs with treatments undertaken by other federal and state agencies and private individuals. To allow flexibility in the treatment of noxious weeds, another component of the proposed action is the inclusion of adaptive management practices, which include the following:

1. Treatment of infestations of noxious weeds that may become established but which are not currently identified on the species list or known to occur on the forests;

2. Utilization of an Integrated Vegetation Management (IVM) approach, which incorporates a variety of methods for prevention, containment, and control of site-specific weed infestations;

3. The use of approved herbicides that may not be exclusively listed in the proposed action;

4. The application of new research on the use of biological control, suitable herbicides, and vegetation competition, and ecosystem information on the vulnerability to invasion, and;

5. If prescribed management fails to result in the desired outcome, alternative strategies will be developed, and management will be adapted until the desired conditions are achieved, which could involve an increase in the estimated annual acreage of treatment.

The various methods that may be analyzed under an IVM approach include: (a) Manual: Hand-grubbing, hand-pulling, and hand-rogueing; (b) mechanical: clipping, mowing, tilling and burning; (c) cultural: grazing by livestock, tilling, fertilization, seeding of competitive plants, and the use of weed seed-free seed mixes and mulches; (d) biological: use of approved insects and pathogens; and (e) herbicidal: spot treatments, backpack, and ground-based broadcast applications. It is expected that a combination of methods would be used for most treatment programs and the following criteria would be applied: (1) Health and human safety, (2) effectiveness, (3) economic efficiency, and (4) environmental acceptability and compatibility. The annual combination of methods to be used is expected to vary depending on specific conditions. There will be no aerial application of chemicals by either fixed wing or rotary aircraft.

Sites range in size from single plants to populations covering several thousand acres. In most cases, the weed infestations do not involve 100 percent of the ground, so actual control efforts for noxious weeds may be confined to a smaller area than that reflected in the total affected areas.

All treatment methods, supported by research and experience, will be evaluated for the various weed species. At the low end of anticipated treatment acres, roughly 1,500 acres would be a combination of mechanical/herbicidal, 300 acres manual/mechanical, and the remaining 200 acres biological. Conversely, at the high end of the anticipated treatment acres the breakdown would be roughly 7,500 acres mechanical/herbicidal, 1,500 acres manual/mechanical, and 1,000 acres biological. Based on the above-referenced range, it is estimated that, over the planning period, approximately one-to-three percent of the Forests would be treated. Repeated treatments would be necessary for most weed species because seeds in the soil can be viable for five or even ten years. Therefore, recurring treatments would be authorized until the desired control objective is reached.

There are at least five species that have been found adjacent to the forests or within the state although not yet on National Forest System lands. Prevention measures will be considered to keep these species from spreading onto the national forests. However, if these species are eventually found on the Forests, an eradication objective will be considered.

The twenty-one herbicides and four carriers (or additives) that have been approved and documented in the Risk Assessment for Herbicide Use for Regions 1, 2, 3, 4, and 10 and on Bonneville Power Administration Sites (1992) will be considered for use. The following herbicides, however, are the primary materials that will be evaluated based on historical usage for noxious weed control programs: chlorsulfuron, clopyralid, 2, 4–D, dicamba, glyhosate, imazapyr, metsulfuron methyl, picloram, sultometuron, sultometuron methyl, and triclopyr. In addition, an analysis of the herbicide, Plateau, for leafy spurge will be made, although a risk assessment for this herbicide is not yet completed.

DATES: The draft environment impact statement is scheduled for publication in November 2001 with the final environmental impact statement with Record of Decision published in March 2002. A project update letter was sent to all interested stakeholders in May 2001.

ADDRESSES: The responsible officials include Eleanor S. Towns, Regional Forester of the Southwestern Region, 333 Broadway SE, Albuquerque, NM 87102 on any decision related to herbicide use in existing or proposed wilderness zones as well as Research Natural Areas, James W. Golden, Forest Supervisor, Coconino National Forest, 2323 E. Greenlaw Lane, Flagstaff, AZ 86004–1810, Corey P. Wong, Acting Forest Supervisor, Kaibab National Forest, 800 South Sixth Street, Williams, AZ 86046, and Michael R. King, Forest Supervisor, Prescott National Forest for treatments outside of Wilderness and Research Natural Areas.

FOR FURTHER INFORMATION CONTACT: Dave Brewer, Interdisciplinary Team Leader at Kaibab National Forest Supervisor's Office, 800 South 6th Street, Williams, AZ 86046–2899 or phone (520) 635–8221 or e-mail to *mailroom_r3_kaibab@fs.fed.us*. Send written comments to the team leader above. The respective staffs will review specific comments targeted to individual Forests. Additional information will be posted on the Kaibab National Forest web page at *www.fs.fed.us/r3/kai*.

SUPPLEMENTARY INFORMATION: Each scoping began on August 31, 1998, when a proposed action to control noxious weeds on road corridors through herbicidal means was mailed to concerned citizens, federal and state agencies, as well as environmental organizations identified on the Forests' NEPA mailing lists. Preliminary issues identified by both agency personnel and the analysis of public comments include: (a) Impacts on the health and safety of individuals traveling in zones which have been treated with herbicides, (b) impacts to various management indicator plants and animals as well as threatened, endangered, and sensitive species, (c) the original proposed action, which called for treatments of populations only within major transportation and utility corridors, was too narrow in scope because it did not include known and potential populations outside these zones and new species could not be evaluated or treated, and (d) execution of the proposed action may impact groundwater as well as other municipal supplies, resulting in a decline in water quality.

Based on the preliminary issues, it was apparent that the original proposed

action, which focused strictly on right-of-way corridors, was not going to effectively reduce the spread of noxious weeds. In addition, the health and safety issues related to spraying within major travel zones influenced the agency to develop the current proposal and send it out for additional scoping.

The project area is located throughout the Coconino, Kaibab, and Prescott National Forests. The scope of the proposed action is limited to specific control measures on known as well as projected populations within the three national forests.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register** on or about June 15, 2001.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F. 2d 1016, 1022 (9th Cir. 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at the time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council of Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The responsible officials will make the decision on the proposal after considering comments and responses, environmental consequences discussed in the final environmental impact statement, and applicable laws, regulations, and policies.

Dated: June 7, 2001.

Keith A. Menasco,

Acting Forest Supervisor, Kaibab National Forest.

[FR Doc. 01–15941 Filed 6–25–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Opal Creek Scenic Recreation Area (SRA) Advisory Council; Notice of Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Stayton, Oregon on Monday, July 16, 2001. The meeting is scheduled to begin at 6:00 p.m., and will conclude at approximately 8:30 p.m. The meeting will be held in the South Room of the Stayton Community Center located on 400 West Virginia Street in Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Pub. L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. The tentative agenda will focus developing standards and guidelines for management of the SRA and discussion of public involvement strategies.

The public comment period is tentatively scheduled to begin at 8:00 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the July 16 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: June 20, 2001.

Y. Robert Iwamoto,

Deputy Forest Supervisor.

[FR Doc. 01–15969 Filed 6–25–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Municipal Interest Rates for the Third Quarter of 2001

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the third quarter of 2001.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the third calendar quarter of 2001.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning July 1, 2001, and ending September 30, 2001.

FOR FURTHER INFORMATION CONTACT: Gail P. Salgado, Management Analyst, Office of the Assistant Administrator, Electric Program, Rural Utilities Service, U.S. Department of Agriculture, Room 4024–S, Stop 1560, 1400 Independence Avenue, SW, Washington, DC 20250–1560. Telephone: 202–205–3660. FAX: 202–690–0717. E-mail: *GSalgado@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the third calendar quarter of 2001 for municipal rate electric loans. RUS regulations at § 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to § 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the fourth Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates

published in the Bond Buyer in the four weeks specified in § 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of ''Municipal Market Data—General Obligation Yields'' or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 2001 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based on the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under § 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.250 percent.

In accordance with § 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the third calendar quarter of 2001.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2022 or later	5.250
2021	5.250
2020	5.250
2019	5.125
2018	5.125
2017	5.125
2016	5.000
2015	5.000
2014	4.875
2013	4.750
2012	4.625
2011	4.500
2010	4.375
2009	4.250
2008	4.125
2007	4.000
2006	3.875
2005	3.625
2004	3.375
2003	3.125
2002	2.875

Dated: June 13, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–15948 Filed 6–25–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Boundary and Annexation Survey (BAS)

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 27, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via e-mail to: mclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Nancy Goodman, Geography Division, U.S. Census Bureau, Washington, DC 20233–7400, or call (301) 457–1099.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducts the Boundary and Annexation Survey (BAS) to collect and maintain information about the inventory of, the legal boundaries for, and the legal actions affecting the boundaries of counties and equivalent entities, incorporated places, minor civil divisions, and federally recognized legal American Indian and Alaska Native areas. In addition, the BAS provides an opportunity for each jurisdiction to inform the Census Bureau about changes to the road and other map information within its territory, and requests information about the extent of addresses at the intersection of each road with its governmental boundary. This information provides an accurate identification of geographic areas for the Census Bureau to use in conducting the decennial and economic censuses, the population estimates, household survey, and other statistical programs of the Census Bureau, and the legislative programs of the federal government.

Through the BAS, the Census Bureau asks each government to review the forms and maps for its jurisdiction to verify the correctness of the information portrayed. Each government is asked to update the maps to reflect current boundaries, supply information documenting each legal boundary change, provide changes in the inventory of governments, and add or change related map information, such as street network, street name, address break, and so forth, as applicable.

The BAS universe and mailing materials vary depending upon the needs of the Census Bureau in fulfilling its censuses and household surveys. Federally recognized American Indian reservations, off-reservation trust lands, and tribal subdivisions, are included in every survey. The Census Bureau also is considering including federally recognized American Indian off-reservation allotments as part of future surveys.

In the years ending in 8, 9, and 0, the BAS includes all governmental counties and equivalent entities, incorporated places, all governmental minor civil divisions, and federally recognized American Indian and Alaska Native areas (including the Alaska Native Regional Corporations). Each governmental entity surveyed will receive a full set of maps covering its jurisdiction and one or more forms. These three years coincide with the Census Bureau's preparation for the decennial census.

In the years ending with 2 and 7, the BAS includes all federally recognized American Indian and Alaska Native areas, all governmental counties and equivalent entities, minor civil divisions in the six New England states and those with a population of 10,000 or greater in the states of Michigan, Minnesota, New Jersey, New York, Pennsylvania and Wisconsin, and those incorporated places that have a population of 2,500 or greater in all states.

The remaining years of the decade—years ending in 1, 3, 4, 5, and 6—the BAS includes all federally recognized American Indian and Alaska Native areas, all governmental counties and equivalent entities, minor civil divisions in the six New England states, and incorporated places that have a population of 5,000 or greater in all states.

In the years ending from 1 through 7 the Census Bureau may enter into agreements with individual states to modify the universe of minor civil divisions and/or incorporated places to include additional entities that are known by that state to have had boundary changes, without regard to population size. In addition, the Census Bureau will include in the BAS each

newly incorporated place in the year following notification of its incorporation or any boundary change reported as part of the Count Question Resolution process. The BAS also will include each year a single respondent request for municipio, barrio, barrio-pueblo, and subbarrio boundary and status information in Puerto Rico and Hawaiian home land boundary and status information in Hawaii.

To ensure the correct allocation of population and housing units for each household survey, the population estimates program, the 2002 and 2007 Economic Censuses, and the 2010 Census, the Census Bureau will request information depicting the relationship of addresses to each legal boundary. The BAS asks each government to review and/or update information about the addresses that exist at their legal boundaries, where their boundaries intersect streets. This information assists the Census Bureau in correctly tabulating the data for each governmental unit.

No other federal agency collects these data nor is there a standard collection of this information at the state level. The Census Bureau's BAS is a unique survey providing a standard result for use by federal, state, local, and tribal governments and by commercial, private, and public organizations.

II. Method of Collection

During the next three years, the Census Bureau will be developing an electronic response option. This option will involve updating both the forms and maps electronically and the use of electronic signatures; the Census Bureau is working with the State of Georgia in a pilot program to develop this methodology. The Census Bureau will provide digital files to the State of Georgia after processing the 2001 BAS responses.

A BAS package that includes the following items is mailed to each respondent:

1. An introductory letter from the Director of the Census Bureau.

2. The appropriate BAS Survey Form(s) preprinted with entity-specific identification information:

BAS–1 and BAS–1A—Incorporated Places
BAS–CUO City BAS 2, BAS–2A, and BAS–CUO—Counties, Parishes, Boroughs, City and Boroughs, Census Areas
BAS–3 and BAS–3A—Minor Civil Divisions
BAS–4—Newly Incorporated Places or Newly Activated Places
BAS–5 and BAS–5A—American Indian and Alaska Native Areas

3. A BAS Guide for Annotating the Maps.

4. Special inserts, if applicable, for the entity.

5. A set of maps showing the current boundaries of the entity.

6. A return envelope.

An official in each government is asked to verify the legal boundaries and update the maps, showing any street feature, revised/new address breaks, and/or legal boundary changes. The official is then asked to sign the maps and verify the forms and return the information to the Census Bureau.

The Census Bureau inserts the boundary, address break, and feature changes into the TIGER system—the Census Bureau's geographic data base and associated data files.

III. Data

OMB Number: 0607–0151.

Form Numbers: BAS–1, BAS–1A, BAS–2, BAS–2A, BAS–CUO, BAS–3, BAS–3A, BAS–4, BAS–5, and BAS–5A. (A final list of inserts and letters will be included in the package submitted to the OMB for approval.)

Type of Review: Regular Submission.

Affected Public: State, Local and Tribal Governments.

Estimated Number of Respondents:

2002 BAS—13,662 respondents per year
2003 and 2004
BAS—10,631 respondents per year

Estimated Time Per Response: 3 hours.

Estimated Total Annual Burden Hours:

2002 BAS—40,986 burden hours
2003 and 2004 BAS—28,257 burden hours

Estimated Total Annual Cost: The estimated total annual cost is $6,996,310 for 2002 and $4,823,469 for 2003 and 2004. The Census Bureau based its estimate on the information from the Annual Survey of State and Local Government Employment. Using employment and payroll in the category ''financial administration,'' the main cost is for review and completion by local government employees whose pay averages $17.07 per hour.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C. Section 6.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 21, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–15988 Filed 6–25–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[DOCKET 24–2001]

Foreign-Trade Zone 124—Gramercy, LA; Subzone 124D—LOOP LLC/LOCAP LLC (Crude Oil Pipeline and Storage System); Request for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Louisiana Port Commission, grantee of FTZ 124, requesting authority to expand Subzone 124D at the LOOP LLC/LOCAP LLC pipeline and storage system, to include additional pipeline and storage tanks. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 14, 2001.

SZ 124D was approved on June 1, 1995 (Board Order 748, 60 FR 30267, 06/08/95). The subzone currently consists of two sites (981 acres) and 92 miles of pipeline. The subzone facilities include:

—Site 1—Four Parcels owned by LOOP LLC, and 37 miles of pipeline.
—Parcel A (10 acres)—Fourchon Booster Station, Highway 1, Fourchon, LA.
—Parcel B (287 acres)—Clovelly Dome Storage Terminal, Clovelly, LA.
—Parcel C (533 acres)—Brine Storage Reservoir, Clovelly, LA.
—Parcel D (27 acres)—Operations Center, 224 E. 101 Place, Cut Off, LA.
—Site 2 (124 acres and 55 miles of pipeline)—St. James Terminal, 6695 LOCAP Road, St. James, LA, owned by LOCAP LLC, and operated by LOOP LLC pursuant to a management agreement.

The applicant is now requesting authority to expand the subzone to include a fifth parcel within Site 1: Parcel E (103.5 acres)—tank farm, located at South Lafourche Airport Road, Clovelly, Louisiana, some 1.5 miles from the Clovelly Dome Storage Terminal (Site 1, Parcel B) and .75 of a mile from the Brine Storage Reservoir (Site 1, Parcel C). The proposed site includes a 3000 foot pipeline right of way connecting the tank farm site with the Brine Storage Reservoir. Currently, two storage tanks are under construction, each of which will hold a maximum of 650,000 barrels of crude petroleum product. LOOP may install up to ten additional tanks (6.6 million barrel capacity) on the proposed site. The expansion site will be used for segregated crude petroleum handling.

Public comment on the proposal is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 27, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 10, 2001).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 365 Canal Street, #1170, New Orleans, LA 70130.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 4008, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: June 18, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–16014 Filed 6–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 25–2001]

Foreign-Trade Zone 230—Winston-Salem, NC; Application for Subzone Status, United Chemi-Con, Inc., Plant (Aluminum Electrolytic Capacitors), Lansing, North Carolina

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Piedmont Triad Partnership, grantee of FTZ 230, requesting special-purpose subzone status for the aluminum electrolytic capacitor manufacturing plant of United Chemi-Con, Inc. (UCC) (a subsidiary of Nippon Chemi-Con, Inc., of Japan), located in Lansing, North Carolina. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 18, 2001.

The UCC plant (45 acres/211,000 sq. ft.) is located 185 McNeil Road, Lansing (Ashe County), North Carolina. The facility is used to produce aluminum electrolytic capacitors (HTSUS# 8532.22.0020–85) for export and the domestic market. The production process involves etching, formation, slitting, winding and electrolyte impregnation of aluminum foil, which is then sealed into aluminum cans. Components purchased from abroad (representing 30% of finished capacitor value) include: polyoxy ethylene glyceline, aluminum and copper wire, adipic acid, maleic acid, isomeric decanedicarboxlic acid, silicone, tape, tubes of PET and PVC, gaskets, vent plugs, kraft and manila paper, aluminum etched foil, aluminum tabs, and fasteners (duty rate range: free—8.2%).

FTZ procedures would exempt UCC from Customs duty payments on the foreign components used in export production (20% of shipments). On its domestic sales, the company would be able to choose the duty rate that applies to finished aluminum electrolytic capacitors (duty free) for the foreign inputs noted above. The application indicates that subzone status would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 27, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 11, 2001).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service—Greensboro, Suite C, 532 North Regional Road, Greensboro, NC 27409.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 4008, 14th Street & Constitution Avenue, NW, Washington, DC 20230–0002.

Dated: June 18, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–16015 Filed 6–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–506]

Notice of Final Results of Antidumping Duty Administrative Review: Oil Country Tubular Goods From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 8, 2001, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on oil country tubular goods (OCTG) from Canada. *See Notice of Preliminary Results of Antidumping Duty Administrative Review: Oil Country Tubular Goods from Canada* 66 FR 13893 (March 8, 2001) (*Preliminary Results*). This review covers one manufacturer/exporter, Atlas Tube, Inc. (Atlas), and the period June 1, 1999, through December 31, 1999. We gave interested parties an opportunity to comment on the *Preliminary Results* of review. We received notification on March 19, 2001 that the single respondent, Atlas, did not intend to file comments. We did not receive any comments from any other parties.

EFFECTIVE DATE: June 26, 2001.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan, AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5253.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations

to the Department's regulations are to 19 CFR Part 351 (1999).

Background

On March 8, 2001, the Department published in the **Federal Register** (66 FR 13893) the Preliminary Results of this review. We invited parties to comment on our *Preliminary Results*. We received notification on March 19, 2001, from Atlas, the only respondent in this segment of the proceeding, that it did not intend to submit either case or rebuttal briefs. In addition, we did not receive any comments from any other party.

In the *Preliminary Results*, we found the dumping margin for Atlas to be 6.56 percent. We have now completed the administrative review in accordance with section 751 of the Act and find the rate to be 6.66 percent, due to the fact that Atlas had filed revised home market sales, U.S. sales, and cost of production databases on February 9, 2001, which the Department inadvertently failed to use in calculating its preliminary results of review.

Scope of the Review

The products covered by this review include shipments of OCTG from Canada. This includes American Petroleum Institute (API) specification OCTG and all other pipe with the following characteristics except entries which the Department determined through its end-use certification procedure were not used in OCTG applications: Length of at least 16 feet; outside diameter of standard sizes published in the API or proprietary specifications for OCTG with tolerances of plus ⅛ inch for diameters less than or equal to 8⅝ inches and plus ¼ inch for diameters greater than 8⅝ inches, minimum wall thickness as identified for a given outer diameter as published in the API or proprietary specifications for OCTG; a minimum of 40,000 PSI yield strength and a minimum 60,000 PSI tensile strength; and if with seams, must be electric resistance welded. Furthermore, imports covered by this review include OCTG with non-standard size wall thickness greater than the minimum identified for a given outer diameter as published in the API or proprietary specifications for OCTG, with surface scabs or slivers, irregularly cut ends, ID or OD weld flash, or open seams; OCTG may be bent, flattened or oval, and may lack certification because the pipe has not been mechanically tested or has failed those tests. This merchandise is currently classifiable under the Harmonized Tariff Schedules (HTS) item numbers 7304.20, 7305.20, and 7306.20. The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We did not receive any interested party comments on our Preliminary Results. Therefore, there is no Issues and Decision Memorandum for the final results of review.

Final Results of Review

We have determined that the only change to our analysis for purposes of these final results are the use of the revised home market sales, U.S. sales, and cost of production databases filed by Atlas on February 9, 2001. As a result of this review, we determine that a 6.66 percent dumping margin exists for Atlas for the period June 1, 1999, through December 31, 1999.

Assessment

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the importer-specific sales to the total entered value of the same sales. Atlas reported entered value by subtracting discounts, freight, brokerage and handling costs from the reported U.S. price. Since the importer-specific rate is above de minimis, we will instruct Customs to assess duties on the importer's entries of subject merchandise. The Department will issue appraisement instructions directly to Customs.

Pursuant to section 751(d)(2) of the Act, on August 22, 2000, the Department revoked the antidumping duty order on OCTG from Canada, effective January 1, 2000 (65 FR 50954). Therefore, we instructed Customs to liquidate all entries of subject merchandise made on or after January 1, 2000, without regard to antidumping duties. As a result of this revocation, we will not issue cash deposit instructions to Customs based on the results of this review.

Notification

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1).

Dated: June 18, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–16016 Filed 6–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Technology Administration

[Docket No.: 01613156–1156–01]

National Medal of Technology's Call for Nominations for the Year 2002

AGENCY: Technology Administration, U.S. Department of Commerce.

ACTION: Announcement of the National Medal of Technology's Call for Nominations for the year 2002.

SUMMARY: The Department of Commerce's Technology Administration is accepting nominations for its National Medal of Technology (NMT) award program for the year 2002.

Established by Congress in 1980, the President of the United States awards the National Medal of Technology annually to our Nation's leading innovators. If you know of a candidate who has made an outstanding contribution in technology, send for a nomination packet now.

DATES: The deadline for submission of an application is August 30, 2001.

ADDRESSES: The NMT Nomination Applications for the year 2002 can be obtained from the NMT program office, Technology Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 4226, Washington, DC 20230. The applications are also available by visiting the NMT website at *www.ta.doc.gov/medal* or by faxing the office at 202/501–8153. Please return the completed application to Mildred

Porter, Director of the NMT program, at the address above.

FOR FURTHER INFORMATION CONTACT: Mildred Porter, Director, 202–482–5572.

SUPPLEMENTARY INFORMATION: The National Medal of Technology is the highest honor awarded by the President of the United States to America's leading innovators. Enacted by Congress in 1980, the Medal of Technology was first awarded in 1985. The Medal is given annually to individuals, teams, or companies for accomplishments in the innovation, development, commercialization, and management of technology, as evidenced by the establishment of new or significantly improved products, processes, or services.

The primary purpose of the National Medal of Technology is to recognize technological innovators who have made lasting contributions to enhancing America's competitiveness and standard of living. The Medal highlights the national importance of fostering technological innovation based upon solid science, resulting in commercially successful products and services.

The Selection Process

A distinguished, independent committee evaluates the merits of all candidates nominated through an open, competitive solicitation process. The U.S. Department of Commerce's Technology Administration agency is responsible for administrating the National Medal of Technology. Committee recommendations are forwarded to the Secretary of Commerce who then makes recommendations to the President for final decision.

The Awards Ceremony and Events

Each year the President in a joint White House ceremony with the National Medal of Science presents the National Medal of Technology awards. (The National Science Foundation administers the National Medal of Science award program.) The Medal laureates are celebrated at a dinner gala hosted by the National Science and Technology Medals Foundation along with other events planned around the White House ceremony. We invite you to look at our web site (*www.ta.doc.gov/medal*) for the historical archives, including photos and videos of the most recent laureates, and a listing of the 131 winners who have received this prestigious medal. The Medal winners serve as ambassadors to the next generation of technologists.

Dated: June 12, 2001.

Bruce Mehlman,

Assistant Secretary for Technology Policy, Technology Administration.

[FR Doc. 01–15831 Filed 6–25–01; 8:45 am]

BILLING CODE 3510–18–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

June 20, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: June 26, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 1999). Also see 65 FR 66730, published on November 7, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 20, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on June 26, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Fabric Group	
219, 313–O [2], 314–O [3], 315–O [4], 317–O [5], 326–O [6], 617, 625/626/627/628/629, as a group.	205,134,037 square meters of which not more than 51,611,668 square meters shall be in Category 219; not more than 63,080,926 square meters shall be in Category 313–O; not more than 36,701,630 square meters shall be in Category 314–O; not more than 49,317,818 square meters shall be in Category 315–O; not more than 51,611,668 square meters shall be in Category 317–O; not more than 5,734,628 square meters shall be in Category 326–O, and not more than 34,407,781 square meters shall be in Category 617.
Limits not in a Group	
335	373,737 dozen.
338/339/638/639	7,216,762 dozen of which not more than 6,495,087 dozen shall be in Categories 338–S/339–S/638–S/639–S [7].
347/348	7,380,460 dozen of which not more than 2,441,840 dozen shall be in Categories 347–T/348–T [8].
350	799,866 dozen.
351/651	1,169,991 dozen.
352/652	4,208,866 dozen.
361	2,460,261 numbers.
410/624	1,302,199 square meters of which not more than 911,540 square meters shall be in Category 410.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.
[3] Category 314–O: all HTS numbers except 5209.51.6015.
[4] Category 315–O: all HTS numbers except 5208.52.4055.
[5] Category 317–O: all HTS numbers except 5208.59.2085.
[6] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.
[7] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.
[8] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010. 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–15987 Filed 6–25–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the United States Air Force Academy, Office of Admissions, announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 27, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to United States Air Force Academy, Office of Admissions, 2304 Cadet Drive, Suite 236, USAFA, CO 80840.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to the above address, or call United States Air Force Academy, Office of Admissions, (719) 333–7291.

Title, Associated Form, and OMB Number: Air Force Academy Applications, United States Air Force Academy Form 149, OMB Number 0701–0087.

Needs and Uses: The information collection requirement is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or households.

Annual Burden Hours: 4,925.

Number of Respondents: 9,850.

Responses per Respondent: 1.

Average Burden per Response: 30 Minutes.

Frequency: 1.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The information collected on this form is required by 10 U.S.C. 9346. The respondents are students who are applying for admission to the United States Air Force Academy. Each student's background and aptitude is reviewed to determine eligibility. If the information on this form is not collected the individual cannot be considered for admittance to the Air Force Academy.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–15942 Filed 6–25–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Request for Public Review and Comment of Changes to the Space Segment/User Segment Interface Control Document (ICD) for the L2 Civil Signal (L2C)

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: This notice informs the public that the Global Positioning System (GPS) Joint Program Office (JPO) proposes to revise ICD–GPS–200, NAVSTAR GPS Space Segment/ Navigation User Interface, to include the description of the proposed L2C signal, to be transmitted at the L2 frequency (1227.6 MHz). These proposed changes are described in draft Preliminary Proposed Interface Revision Notice (PPIRN), PPIRN–200C–007. The draft PPIRN can be reviewed at the following web site: *http://gps.losangeles.af.mil.* Select the ''GPS Library'' tab, then select the ''GPS Public'' tab, and then select the ''Public Documents'' selection. Hyperlinks are provided to ''DRAFT–PPIRN–200C–007 (PDF)'' and to review instructions. Reviewers should save the PPIRN to a local memory location prior to opening and performing the review. All comments and their resolutions will be posted to the web site.

ADDRESSES: Submit comments to SMC/ CZER, 2420 Vela Way, Suite 1467, El Segundo, CA 90245–5469, ATTN: 1st Lt Reginald C. Victoria. A comment matrix is provided for your convenience at the web site and is the preferred method of comment submittal. Comments may be submitted to the following Internet address: cmdm@losangeles.af.mil. Comments may also be sent by fax to (310) 363–6387.

DATES: The suspense date for comment submittal is July 17, 2001.

FOR FURTHER INFORMATION CONTACT: Capt Eric Y. Moore, Configuration Management Processes Coordinator, (310) 363–5117, or 1st Lt Reginald C. Victoria, ICD–GPS–200C Point of Contact, (310) 363–6329, GPS JPO System Engineering Division, address above.

SUPPLEMENTARY INFORMATION: The civilian and military communities use the Global Positioning System, which employs a constellation of 24 satellites to provide continuously transmitted signals to enable appropriately configured GPS user equipment to

produce accurate position, navigation and time information.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–15943 Filed 6–25–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Hold Public Meetings To Solicit Citizen Input Into Cumulative Effects Assessment of Navigation Investment Strategies Along the Ohio River Main Stem

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of public meetings.

SUMMARY: The Corps of Engineers will conduct public scoping meetings at six locations along the main stem of the Ohio River to solicit input for a Cumulative Effects Analysis (CEA). This document will be a major component of the Ohio River Main Stem Systems Study's Programmatic Environmental Impact Statement (PEIS) described in the ''Notice Of Intent to Prepare an EIS'' published in the **Federal Register** on October 21, 1998, and amended in the **Federal Register** on June 9, 2000. Representatives of the Corps of Engineers will provide an oversight presentation on the study,the EIS process, and cumulative effects assessment. The public will then be invited to provide comments or ask questions relevant to the study.

FOR FURTHER INFORMATION CONTACT: Questions or comments regarding this Notice and the CEA can be answered by Ms. Veronica Rife, U.S. Army Corps of Engineers, P.O. Box 59, Louisville, Kentucky, 40201–0059, Telephone: (502) 315–6785, email: celrl-ormss@usace.army.mil.

SUPPLEMENTARY INFORMATION: The Great Lakes & Ohio River Division of the U.S. Army Corps of Engineers is evaluating alternative investment strategies for commercial navigation infrastructure on the Ohio River System for the next 60 years. The study is being conducted under the authority of the United States Senate, Committee on Public Works resolution dated May 16, 1955; and the United States House of Representatives, Committee on Public Works and Transportation resolution dated March 11, 1982. The Corps of Engineers is preparing a Programmatic Environmental Impact Statement (PEIS) including a Cumulative Effects Analysis (CEA) appendix concurrent with a System Investment Plan (SIP) as primary products of the study. The SIP will identify where and approximately when site-specific navigation infrastructure improvements should be made along the Ohio River and will be used by the Corps of Engineers for future planning and budgeting purposes. The SIP will not recommend any specific projects for Congressional authorization. A PEIS will be prepared concurrent with the SIP to assess the system-wide environmental effects of any and all projected infrastructure improvements. A major component of the PEIS is the CEA that will focus on evaluating the cumulative impacts to certain environmental resources in and along the mainstem of the Ohio River.

The Corps of Engineers published two previous Notices of Intent (NOI) to Prepare NEPA documents for this study. The first Notice, ''Notice of Intent to Prepare an Environmental Impact Statement for the Ohio River Main Stem Systems Study,'' was published in **Federal Register**, volume 63, number 203 page 56165 on Wednesday, October 21, 1998. In that Notice, the Corps stated its intention to prepare one or more EISs for the study and it's intention to produce an interim report with a feasibility-level EIS for Greenup Locks & Dam, near Greenup, Kentucky, and John T. Myers Locks & Dam, near Mount Vernon, Indiana. The interim report and feasibility-level EIS were completed in 2000. The Corps of Engineers published a second Notice, ''Notice of Intent to Prepare an Environmental Assessment for Proposed Authorization of an Ohio River Ecosystem Restoration Program,'' in the **Federal Register**, volume 65, number 112 page 36674 on Friday, June 9, 2000. The Corps of Engineers subsequently produced an Integrated Decision Document and Environmental Assessment recommending authorization of an Ohio River Ecosystem Restoration Program. Greenup and J.T. Myers Locks Improvement Projects, and the Ohio River Ecosystem Restoration Program were authorized in the Water Resources Development Act of 2000.

As part of the initial PEIS scoping process, three public scoping workshops were held in November 1998 at Evansville, IN, Hunting, WV, and Pittsburgh, PA as stated in the October 1998 NOI.

The scoping process to be followed for the remainder of the study will include: continuation of interagency environmental team meetings, a press release announcing the CEA scoping process and inviting comments, a mailing to all addressees on the ORMSS mailing list (approximately 2,500), advertisements in local newspapers, and a series of six sets of meetings (one set in each state) along the Ohio River. Each set of meetings will consist of a daytime meeting with governmental agencies and an evening meeting open to the public. This process emphasizes the Corps' desire for participation by all interested parties.

The primary issue to be analyzed in depth in the PEIS will be cumulative effects of SIP recommendations in the context of past, present, and reasonably foreseeable future actions by the Corps of Engineers and others in and along the Ohio River. The impacts analysis will include biological resources, cultural resources and socioeconomic effects, air quality, noise impacts, and recreational resources.

Meetings are scheduled as follows:

Date: July 10, 2001.
Time: 5 p.m.–7 p.m.
Place: Banterra Bank—Large Conference Room, 101 West Eighth St., Metropolis, IL 62960.

Date: July 12, 2001.
Time: 5 p.m.–7 p.m.
Place: Victory Theatre—5th Floor Banquet Room, 600 Main St., Evansville, IN 47708.

Date: July 31, 2001.
Time: 5 p.m.–7 p.m.
Place: Mid-Ohio Valley Regional Council—Large Conference Room, 531 Market St., Parkersburg, WV 26101.

Date: August 1, 2001.
Time: 5 p.m.–7 p.m.
Place: Community College of Beaver Co.—Library Resource Center, Conference Room 103 (Near Parking Lot 2), 1 Campus Dr., Monaca, PA 15061.

Date: August 6, 2001.
Time: 5 p.m.–7 p.m.
Place: Kenton Co. Public Library—Large Meeting Room, 505 Scott Blvd., Covington, KY 41011.

Date: August 7, 2001.
Time: 5 p.m.–7 p.m.
Place: Shawnee State University—University Center, 940 Second St., Portsmouth, OH 45662.

Interested parties will be encouraged to provide oral comments relevant to issues to be addressed in the CEA or Programmatic EIS at any of these public forums. Otherwise, the Corps of Engineers requests written comments or requests for information be directed to the following study contact: Ms. Veronica Rife, Project Manager, Ohio River Mainstem Systems Study, P.O. Box 59, Louisville, KY 40201–0059, 502–315–6785, Email: celrl-ormss@usace.army.mil.

All comments should be received by the Corps of Engineers by August 31, 2001.

Dated: June 19, 2001.

Paul D. Robinson,

Director of Civil Works and Management.

[FR Doc. 01–16130 Filed 6–25–01; 8:45 am]

BILLING CODE 3710–GM–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.290U]

Bilingual Education: Comprehensive School Grants; Notice Reopening Competition for New Awards

SUMMARY: On April 16, 2001, a notice inviting applications for new awards for fiscal year (FY) 2001 was published in the **Federal Register** (66 FR 19437—19471). This notice was a complete application package and contained all of the information, application forms, and instructions needed to apply for a grant under this program. The notice listed a deadline date of June 15, 2001, for the transmittal of applications and specified that applicants could submit their applications in either electronic or paper format.

Due to a power outage affecting the Department's Electronic Grant Application System (e-APPLICATION), applicants that intended to submit their applications in electronic format were unable to use the Internet-based electronic system for submitting applications on June 14–15 and consequently may have been unable to meet the application deadline date.

Since the deadline date has passed, this notice is intended to help potential applicants compete fairly under the Bilingual Education Comprehensive School Grants Program by reopening the competition for all applicants and establishing the new deadline dates specified below for transmittal of applications and intergovernmental review. You may submit your application to us in either electronic or paper format. You may access the electronic grant application at the following site: *http://e-grants.ed.gov.*

Deadline for Transmittal of Applications: July 2, 2001.

Deadline for Intergovernmental Review: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Margarita Ackley, Lorena Dickerson, or Jessica Knight, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5086, Switzer Building, Washington, DC 20202–6510. Telephone: Margarita Ackley (202) 205–0506, Lorena Dickerson (202) 205–9044, Jessica Knight (202) 205–0706. E-mail: *Margarita_Ackley@ed.gov; Lorena_Dickerson@ed.gov; Jessica_Knight@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed above.

Electronic Access to this Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1–888–293–6498 or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet 1 access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 7424.

Dated: June 21, 2001.

Arthur M. Love,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 01–16002 Filed 6–25–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Direct Grant Programs

AGENCY: Department of Education.

ACTION: Notice reopening application deadline dates for certain direct grants.

SUMMARY: The Secretary reopens the deadline dates for the submission of applications by certain applicants (see *Eligibility*) under certain direct grant programs. All of the affected competitions are among those under which the Secretary is making new awards for fiscal year (FY) 2001. The Secretary takes this action to allow more time for the preparation and submission of applications by potential applicants adversely affected by severe weather conditions resulting from Tropical Storm Allison. The reopenings are intended to help these potential applicants compete fairly with other applicants under these programs.

Note: One of the affected programs or competitions is under the Office of Postsecondary Education and four are under the Office of Elementary and Secondary Education. You can find information related to each of these competitions under the ''List of Programs Affected'' in this notice.

Eligibility: The extension of deadline dates in this notice applies to you if you are a potential applicant in areas of Louisiana, Texas, or Florida that the President has declared a disaster area as a result of Tropical Storm Allison. These areas include the following:

State	County and/or city
Florida	Bay, Calhoun, Gadsden, Holmes, Jefferson, Leon, Liberty, Wakulla, and Washington.
Louisiana	Ascension, Assumption, Beauregard, East Baton Rouge, Iberia, Iberville, Jefferson, Lafayette, Lafourche, Livingston, Orleans, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion, and Washington.
Texas	Anderson, Angelina, Brazoria, Cherokee, Chambers, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Leon, Liberty, Madison, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, and Walker.

DATES: The new deadline date for transmitting applications under each competition is listed with that competition.

If the program in which you are interested is subject to Executive Order 12372, the deadline date for the transmittal of State process recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties remains as originally posted.

ADDRESSES: The address and telephone number for obtaining applications for, or information about, an individual program are in the application notice for that program. We have listed the date

and **Federal Register** citation of the application notice for each program.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number, if any, listed in the individual application notice. If we have not listed a TDD number, you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

If you want to transmit a recommendation or comment under Executive Order 12372, you can find the latest list and addresses of individual SPOCs on the Web site of the Office of Management and Budget at the following address: *http://www.whitehouse.gov/omb/grants*

You can also find the list of SPOCs in the appendix to the Forecast of Funding Opportunities under the Department of 1 Education Discretionary Grant Programs for Fiscal Year (FY) 2001. This is available on the Internet at: *ed.gov/funding.html*.

SUPPLEMENTARY INFORMATION: The following is specific information about each of the programs or competitions covered by this notice:

LIST OF PROGRAMS AFFECTED

CFDA No. and name	Publication date and Federal Register cite	Original deadline date for applications	Revised deadline date for applications
Office of Postsecondary Education:			
84.339B Learning Anytime Anywhere Partnerships (LAAP)	1/16/01 (66 FR 3557)	6/15/01	6/27/01
Office of Elementary and Secondary Education:			
84.215 Fund for the Improvement of Education Program: Physical Education for Progress.	5/07/01 (66 FR 23006)	6/18/01	7/02/01
84.310A Parental Assistance Program	5/07/01 (66 FR 23008)	6/21/01	7/02/01
84.349A Early Childhood Educator Professional Development Program.	4/24/01 (66 FR 20640)	6/25/01	7/02/01
84.350A Transition to Teaching Program	4/16/01 (66 FR 19678)	6/15/01	7/02/01

If you are an individual with a disability, you may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the individual application notices.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*.

Dated: June 20, 2001.

Mark Carney,

Deputy Chief Financial Officer.

[FR Doc. 01–16000 Filed 6–21–01; 4:28 pm]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Record of Decision To Classify Certain Elements of the SILEX Process as Privately Generated Restricted Data

AGENCY: Office of Nuclear and National Security Information, DOE.

ACTION: Notice.

SUMMARY: This notice announces the Secretary of Energy's decision to classify as Restricted Data certain privately generated information concerning an innovative isotope separation process for enriching uranium. Under 10 CFR 1045.21(c), the Secretary of Energy is required to inform the public whenever the authority to classify privately generated information as Restricted Data is exercised.

SUPPLEMENTARY INFORMATION: An Australian company, Silex Systems, Limited, has been developing the Separation of Isotopes by Laser Excitation (SILEX) process to enrich uranium since 1992. In 1996, USEC, Inc., purchased the rights from Silex Systems, Limited, to evaluate and further develop this process. The privately generated information which the Secretary of Energy has classified as Restricted Data under the Atomic Energy Act of 1954, as amended, pertains to certain elements of the SILEX process.

Issued in Washington, DC on June 19, 2001.

Joseph S. Mahaley,

Acting Director, Office of Security and Emergency Operations.

[FR Doc. 01–15982 Filed 6–25–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Oak Ridge Operations Office; Certification of the Radiological Condition of the B&T Metals Site in Columbus, OH, 1996

AGENCY: Department of Energy (DOE), Oak Ridge Operations (ORO) Office of Environmental Management.

ACTION: Notice of certification.

SUMMARY: The Department of Energy has completed remedial action to decontaminate the B&T Metals Site in Columbus, Ohio. Formerly this property was found to contain quantities of residual radioactive material from activities conducted under contract to DuPont, acting as a contractor for the Manhattan Engineer District. Based on the analysis of all data collected, DOE has concluded that any residual radiological contamination remaining on-site at the conclusion of DOE's remedial action falls within radiological guidelines in effect at the conclusion of such remedial action.

ADDRESSES: The certification docket is available at the following locations:

U.S. Department of Energy, Public Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585
State Library of Ohio, Documents Division, 65 South Front Street, Columbus, Ohio 43215
Public Document Room, Oak Ridge Operations Office, U.S. Department of Energy, 200 Administration Road, Oak Ridge, Tennessee 37831

FOR FURTHER INFORMATION CONTACT: Robert G. Atkin, Project Engineer, Office of Assistant Manager for Environmental Management, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, Tennessee 37831, phone: (865) 576–1826 fax: (865) 574–4724.

SUPPLEMENTARY INFORMATION: The DOE, ORO Office of Environmental Management, has conducted remedial action at the B&T Metals site in Columbus, Ohio, under the Formerly Utilized Sites Remedial Action Program (FUSRAP). The objective of the program is to identify and remediate or otherwise control sites where residual radioactive contamination remains from activities carried out under contract to the Manhattan Engineer District/Atomic Energy Commission (MED/AEC) during the early years of the nation's atomic energy program.

In October 1997, the U.S. Congress assigned responsibility for management of the program to the U.S. Army Corps of Engineers (USACE). Completion of the Certification process was delayed pending preparation of a Memorandum of Understanding between the DOE and USACE with regard to completed, remediated sites such as B&T Metals. The Memorandum of Understanding between the U.S. DOE and the U.S. Army Corps of Engineers Regarding Program Administration and Execution of the Formerly Utilized Sites Remedial Action Program was signed by the parties in March 1999. Funding to proceed with the completion of DOE closure documentation for several FUSRAP sites, including B&T Metals, was obtained from USACE in late 2000.

In 1943, the DuPont Company, acting as an agent of MED, contracted with the B&T Metals Company to extrude rods from uranium metal billets. The rods were destined for the Hanford reactor. Production extrusion began in March 1943 and continued until August of that year. It is likely that more than 50 tons of uranium was extruded.

The B&T Metals site consists of three buildings: the main building, a storage building, and an aluminum extrusion building. A review of historic Sanborn insurance maps from 1941 indicate that all three buildings were standing at the time of the MED activities.

Radiological protection during the MED work was provided by Metallurgical Laboratories of the University of Chicago. Measurements taken in March and April 1943 indicated significant amounts of airborne material, and the extension process was modified to reduce suspended particulate matter. Upon completion of the project, MED and DuPont representatives visually inspected the site to verify that the residue had been shipped offsite. Although some industrial monitoring was performed during the extrusion operations, there are no records of extensive decontamination or surveys after completion of MED activities. Machinery used for processing uranium has been sold or removed with no records indicating its final disposition. In 1992, the B&T Metals site was designated for cleanup under FUSRAP.

An initial screening of the B&T Metals property was conducted by members of the Oak Ridge National Laboratory (ORNL) Measurements Applications and Development Group on August 2, 1988. ORNL made a subsequent visit to the site on April 25, 1989, to collect air samples in the main building. A radiological assessment of soil and dust samples measured concentrations of radium and thorium at or near the background level, and indoor air samples were below the minimum detectable amounts for gross alpha and beta radiation. However, direct beta/gamma measurements at floor and overhead beams locations exceeded the allowable surface contamination guidelines. Elevated concentrations of uranium were found inside the main building in several floor, sump, and drain locations and in dust on building support beams. Elevated external gamma radiation readings were also found in soil samples taken from the outdoor area where process fluids or shavings from the MED activities reportedly were disposed of.

Post-remedial action surveys conducted in 1996 have demonstrated, and DOE has certified, that the subject property is in compliance with the Department's radiological decontamination criteria and standards in effect at the conclusion of the remedial action. The standards are established to protect members of the general public and occupants of the property and to ensure that reasonably foreseeable future use of the property will result in no radiological exposure above applicable radiological guidelines. These findings are supported by the Department's *Certification Docket for the Remedial Action Performed at the B&T Metals Site in Columbus, Ohio.* DOE makes no representation regarding the condition of the site as a result of activities conducted subsequent to DOE's post-remedial action survey conducted in 1996.

The Certification docket will be available for review between 9:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays) in the Department's Public Reading Room Located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Copies of the certification docket will also be available in the DOE Public Document Room, U.S. Department of Energy, Oak Ridge Operations Office, Oak Ridge, Tennessee 37831, and at the State Library of Ohio, Documents Division, 65 South Front Street, Columbus, Ohio 43215.

DOE, through the Oak Ridge Operations Office of Environmental Management, Oak Ridge Reservation Remediation Management Group, has issued the following statement:

Statement of Certification: B&T Metals in Columbus, Ohio

The Department of Energy (DOE), Oak Ridge Operations (ORO) Office of Environmental Management, Oak Ridge Reservation (ORR) Remediation Management Group, has reviewed and analyzed the radiological data obtained following remedial action at the B&T Metals site in Columbus, Ohio [Parcels 158 and 159, Map F–15, filed in Deed Books 2829, 1227, and 1301 Pages 125, 419, and 154 respectively; and Parcels 1 through 9, Map F–24, filed in Deed Books 3450, 3490, and 2786, Pages 43 (135m 136, 342) and 280, respectively, all in the records of Franklin County, Ohio]. Based on analysis of all data collected, including post-remedial action surveys conducted in 1996, DOE certifies that any residual contamination remaining onsite falls within the guidelines, in effect at the conclusion of remedial action, for use of the site without radiological restrictions. This certification of compliance provides assurance that reasonably foreseeable future use of the site will result in no radiological exposure above radiological guidelines, in effect at the conclusion of the remedial action, for protecting members of the general public as well as occupants of the site.

Property owned by: David L. Tolbert, B&T Metals Company, P.O. Box

163520, 425 West Town Street, Columbus, Ohio 43216–3520

Issued in Oak Ridge, TN, on June 13, 2001.

William M. Seay,

Group Leader, ORR Remediation Management Group.

[FR Doc. 01–15981 Filed 6–25–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–92–000]

Bangor Hydro-Electric Company, Complainant, v. ISO New England Inc. Respondent; Notice of Complaint

June 20, 2001.

Take notice that on June 15, 2001, Bangor Hydro-Electric Company (Bangor Hydro) tendered for filing a complaint in which Bangor Hydro petitions the Commission to issue an order directing that ISO New England Inc. (ISO–NE or the ISO) recalculate the market clearing prices affected by the design flaw in the Electronic Dispatch software from when the software was implemented on December 9, 2000 through late March 2001.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before July 5, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before July 5, 2001. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15956 Filed 6–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–388–001]

Northern Border Pipeline Company; Notice of Compliance Tariff Filing

June 19, 2001.

Take notice that on June 15, 2001 Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective June 1, 2001:

First Revised Sheet Number 183
First Revised Sheet Number 185
First Revised Sheet Number 189
First Revised Sheet Number 190
First Revised Sheet Number 191

Northern Border states that the purpose of this filing is to comply with the Commission's order dated May 31, 2001, 95 FERC 61,320 (May 31 Order), wherein the Commission directed Northern Border to file compliance tariff sheets for Rate Schedule PAL.

Northern Border states that copies of this filing have been sent to all parties of record in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15953 Filed 6–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–025]

TransColorado Gas Transmission Company; Notice of Compliance Filing

June 19, 2001.

Take notice that on May 31, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Twenty-Fifth Revised Sheet No. 21 and Twenty-First Revised Sheet No. 22, with an effective date of June 1, 2001.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets revise its tariff to reflect one amended negotiated-rate contract with National Fuel Marketing Company, and two new negotiated-rate contracts with Red Cedar Gathering Company and El Paso Merchant Energy, L.P. In addition, the tendered tariff sheets reflect the deletion of one expired contract.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web

site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15952 Filed 6–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–116–000, *et al.*]

Duke Energy McClain, LLC, *et al.*; Electric Rate and Corporate Regulation Filings

June 18, 2001.

Take notice that the following filings have been made with the Commission:

1. Duke Energy McClain, LLC NRG Energy, Inc.

[Docket No. EC01–116–000]

Take notice that on June 12, 2001, Duke Energy McClain, LLC (Duke McClain) and NRG Energy, Inc. (NRG) (collectively, Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization of the transfer of Duke Energy North America, LLC's (Duke Energy North America) 100 percent membership interests in Duke McClain to NRG (the Transaction). NRG will pay cash for the membership interests. Duke McClain is developing an approximately 500 MW natural gas-fired, combined cycle electric generating facility located in McClain County, Oklahoma (the Facility). Duke McClain will operate the facility. Applicants state that the Transaction may constitute the indirect disposition of jurisdictional facilities associated with the Facility (*e.g.,* market-based rate schedules of Duke McClain and the sales agreements entered into thereunder, limited transmission interconnection facilities and jurisdictional books and records). Applicants request confidential treatment for the documents contained in Exhibit I and Schedule 1.

Comment date: August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. E.ON AG; Powergen plc; LG&E Energy Corporation; Louisville Gas and Electric Company; Kentucky Utilities Company;

[Docket No. EC01–115–000]

Take notice that on June 12, 2001, E.ON AG (E.ON), Powergen plc (Powergen), LG&E Energy Corporation (LG&E Energy), Louisville Gas and Electric Company (LG&E), and Kentucky Utilities Company (KU), on behalf of themselves and their subsidiaries that are subject to the Federal Energy Regulatory Commission's (Commission) jurisdiction under the Federal Power Act (FPA), filed with the Commission an application pursuant to section 203 of the FPA for an order authorizing the indirect transfer of control of jurisdictional facilities that will occur when E.ON, a company formed under the laws of the Federal Republic of Germany, acquires the shares of Powergen, a company formed under the laws of England and Wales. Powergen's subsidiaries include LG&E Energy, LG&E, and KU.

E.ON intends to purchase Powergen in accordance with the terms of a recommended cash offer for all of the issued and to be issued share capital of Powergen. Upon completion of the transaction, Powergen will become a wholly-owned subsidiary of E.ON.

Comment date: August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Commonwealth Edison Company

[Docket No. ER01–780–001]

Take notice that on May 30, 2001, Commonwealth Edison Company (ComEd) tendered for filing with the Federal Energy Regulatory Commission (Commission), an Executed Settlement Agreement Between ComEd and Wisconsin Public Power Inc.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER01–833–000]

Take notice that on June 13, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing a Further Request for Deferral of Consideration of the unexecuted Wholesale Distribution Tariff Service Agreement and Interconnection Agreement between Pacific Gas and Electric Company and Modesto Irrigation District (MID) filed in FERC Docket No. ER01–833–000 on December 29, 2000. PG&E and Modesto are still discussing the final terms of these Agreements and PG&E therefore is notifying the Commission that the executed WDT and IA will not be filed by June 14, 2001, the second requested deferral date. PG&E requests that the Commission defer consideration of the WDT Service Agreement and IA filed in ER01–833–000 to August 14, 2001 or 60 days beyond the second request for Deferral in order that the parties may finalize the Agreements.

Copies of this filing have been served upon MID, the California Independent System Operator Corporation, and the California Public Utilities Commission.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. PJM Interconnection, L.L.C.

[Docket No. ER01–1671–001]

Take notice that on June 13, 2001, in compliance with PJM Interconnection, L.L.C., 95 FERC ¶ 61,306 (2001), PJM Interconnection, L.L.C. (''PJM''), filed amendments to the PJM Open Access Transmission Tariff and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. to modify the PJM 2001–2002 Load Response Pilot Program to clarify that PJM Technologies, Inc. will not qualify as a participant in the program and, to provide that PJM will file with the Federal Energy Regulatory Commission and post on its website an informational report that evaluates the effectiveness of the program.

Copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM control area.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Electric Power Company

[Docket No. ER01–2304–000]

Take notice that on June 13, 2001, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Cancellation of its Rate Schedule No. 84 under Wisconsin Electric's Coordination Sales Tariff (CST), FERC Electric Tariff First Revised Volume No. 2.

Wisconsin Electric requests an effective date of June 4, 2001.

Copies of the filing are being served on El paso, the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Florida Power Corporation

[Docket No. ER01–2305–000]

Take notice that on June 13, 2001, Florida Power Corporation (FPC) filed a Service Agreement with Utility Board of the City of Key West under FPC's Cost-Based Rates Tariff (CR–1), FERC Electric Tariff No. 9.

FPC is requesting an effective date of June 15, 2001 for this Agreement.

A copy of this filing was served upon the Florida Public Service Commission.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Peoples Energy Services Corporation

[Docket No. ER01–2306–000]

Take notice that on June 13, 2001, Peoples Energy Services Corporation (PE Services), 205 North Michigan Avenue, Chicago, Illinois 60601, tendered for filing with the Federal Energy Regulatory Commission (Commission) a request pursuant to Section 35.12 of the Commission's Regulations, 18 CFR 35.12, for authorization to sell electricity at market-based rates pursuant to its proposed Rate Schedule FERC No. 1, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. PSI Energy, Inc.

[Docket No. ER00–188–002]

Take notice that on June 12, 2001, PSI Energy, Inc. tendered for filing its refund compliance report in the above-referenced docket.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Rochester Gas and Electric Corporation

[Docket Nos. ER01–2053–001 and ER98–3382–000]

Take notice that on June 13, 2001, Rochester Gas and Electric Corporation filed with the Commission a correction to Section 1.1 of Original Sheet No. 1 of its market-based rate power sales tariff filed on May 15, 2001 in the above-referenced proceeding. The corrected tariff sheet is intended to supersede the Original Sheet No. 1 that was filed on May 15, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Tucson Electric Power Company

[Docket No. ER01–2313–000]

Take notice that on June 12, 2001, Tucson Electric Power Company tendered for filing one (1) Umbrella Service Agreement (for short-term firm service) and one (1) Service Agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows:

Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of April 20, 2001 by and between Tucson Electric Power Company and Portland General Electric Company—FERC Electric Tariff Vol. No. 2, Service Agreement No. 172. No service has commenced at this time.

Form of Service Agreement for Non-Firm Point-to Point Transmission Service dated as of April 11, 2001 by and between Tucson Electric Power Company and Portland General Electric Company—FERC Electric Tariff Vol. No. 2, Service Agreement No. 173. No service has commenced at this time.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER01–2314–000]

Take notice that on June 13, 2001, Commonwealth Edison Company (ComEd) submitted for filing two Firm Point-to-Point Transmission Service Agreements (Agreements) with Duke Energy Trading and Marketing (Duke) and Edison Mission Marketing & Trading, Inc. (Edison) under the terms of ComEd's Open Access Transmission Tariff (OATT). A copy of this filing has been sent to Duke and Edison.

ComEd requests an effective date of June 1, 2001, and accordingly requests waiver of the Commission's notice requirements.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Black Hills Corporation, n/k/a Black Hills Power, Inc.

[Docket No. ER01–2315–000]

Take notice that Black Hills Corporation, d/b/a Black Hills Power, Inc., a wholly-owned subsidiary of Black Hills Corporation, Inc. (a South Dakota holding corporation), on June 12, 2001, tendered for filing an executed Service Agreement for Firm Point-to-Point Transmission Service with Black Hills Generation, Inc. Copies of the filing were provided to the regulatory commission of the states of Montana, South Dakota and Wyoming.

Black Hills Power, Inc. has requested that further notice requirement be waived and the tariff and executed service agreement be allowed to become effective May 1, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Idaho Power Company

[Docket No. ER01–2318–000]

Take notice that on June 13, 2001, Idaho Power Company filed a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Delivery and Idaho Power Marketing, under its open access transmission tariff in the above-captioned proceeding.

SDG&E request an effective date of June 15, 2001 for both agreements.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15950 Filed 6–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3916–004, *et al.*]

Xcel Energy Operating Companies, *et al.*; Electric Rate and Corporate Regulation Filings

June 19, 2001.

Take notice that the following filings have been made with the Commission:

1. Xcel Energy Operating Companies

[Docket No. ER99–3916–004]

Take notice that on June 14, 2001, the Xcel Energy Operating Companies (Xcel Energy) submitted for filing Substitute Original Sheet No. 9A and Original Sheet Nos. 9B and 9C to their Joint Open Access Transmission Tariff (Joint OATT), Original Volume No. 1 and Order 614, pursuant to the Commission letter order dated March 14, 2001. The proposed change deletes references to

Volume 2 of the Joint OATT. Xcel Energy will hereafter submit all transmission services agreements in Volume 1 of the Joint OATT.

Xcel Energy requests that the Commission accept the compliance tariff changes effective August 18, 2000 and May 1, 2001, respectively. Xcel Energy requests waiver of the Commission's notice requirements in order for the tariff pages to be accepted for filing on the date requested.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Cleco Marketing & Trading LLC

[Docket No. ER01–1971–001]

Take notice that Cleco Marketing & Trading LLC (CMT), on June 14, 2001, tendered for filing an amendment to its proposed amended Rate Schedule FERC No. 1 submitted on May 1, 2001. The proposed changes would allow CMT to make wholesale sales to and purchases from any affiliate that is not a franchised utility. The rate schedule designations have been amended to comply with the Federal Energy Regulatory Commission's (Commission) Order 614.

The request to amend CMT's Rate Schedule FERC No.1 is made pursuant to the Commission's precedent established in Heartland Energy Services, Inc., 68 FERC P 61,223 (1994); Bridgeport Energy L.L.C., 83 FERC P 61,307 (1998); Cabrillo Power I LLC, 86 FERC P 61,180 (1999), whereby, power marketers were permitted to make sales under their market based rates tariff to any affiliate that is not a franchised utility.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Avista Corp.

[Docket No. ER01–2295–000]

Take notice that on June 11, 2001, Avista Corporation (AVA) tendered for filing with the FERC executed Service Agreements for Short-Term Firm and Non-Firm and Point-To-Point Transmission Service under AVA's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Axia Energy, LP.

AVA requests the Service Agreements be given an effective date of June 4, 2001.

Comment date: July 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Avista Corporation

[Docket No. ER01–2296–000]

Take notice that on June 11, 2001, Avista Corporation (Avista) tendered for filing with the FERC executed Service Agreements for Short-Term Firm and Non-Firm and Point-To-Point Transmission Service under Avista's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Avista Energy, Inc. (Service Agreement). The Service Agreement is for an existing customer to replace a previous agreement and is being filed to add section 4.6 to include charges for low voltage equipment not included in Avista's open access tariff.

Given the urgent need for additional generating capacity in the Pacific Northwest, Avista requests waiver of the Commission's notice requirements to allow the Service Agreements to become effective on April 30, 2001.

Comment date: July 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Carolina Power & Light Company

[Docket No. ER01–2301–000]

Take notice that on June 14, 2001, Carolina Power & Light Company (CP&L) filed revisions to its market-based rates tariff (the Revised Tariff). The significant revisions include the addition of provisions concerning the resale of transmission rights and sales of ancillary services at market-based rates. Copies of the filing were served upon CP&L's market-based rates customers, the North Carolina Utilities Commission and the South Carolina Public Service Commission

CP&L requests waiver of the Commission's notice of filing requirements to allow the Revised Tariff to become effective on June 15, 2001, the day after filing.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric and Power Company

[Docket No. ER01–2302–000]

Take notice that on June 14, 2001, Virginia Electric and Power Company (the Company) filed a service agreement for Duke Energy Trading and Marketing, L.L.C. (DETM) (Customer) under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6 (the Tariff). A copy of the filing was served upon the Customer.

The Company requests that the Commission make the service agreement effective on May 15, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. American Electric Power Service Corporation

[Docket No. ER01–2308–000]

Take notice that on June 14, 2001, Kentucky Power Company tendered for filing a letter agreement with Foothills Generating, L.L.C.

AEP requests an effective date of August 13, 2001. Copies of Kentucky Power Company's filing have been served upon the Kentucky Public Service Commission.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER01–2309–000]

Take notice that on June 14, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Energy USA–TPC Corp.

Entergy Services requests that the TSAs be made effective as service agreements on June 6, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Tampa Electric Company

[Docket No. ER01–2310–000]

Take notice that on June 14, 2001, Tampa Electric Company (Tampa Electric) tendered for filing pursuant to Section 205 of the Federal Power Act a transmission service agreement with Tampa Electric Company, in its wholesale merchant function (Customer) under Tampa Electric's Open Access Transmission Tariff. Copies of this filing have been served on Customer and the Florida Public Service Commission.

Tampa Electric proposes an effective date of May 15, 2001, for the tendered service agreement, and therefore requests a waiver of FERC's notice requirement.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Nordic Energy, L.L.C.

[Docket No. ER01–2311–000]

Take notice that on June 14, 2001, Nordic Energy, L.L.C. (Nordic Energy) petitioned the Commission to: (1) accept for filing its Rate Schedule FERC No. 1,

which will permit it to sell electric energy and capacity to wholesale customers at market-based rates and permit transmission capacity reassignment; (2) waive 60 days' notice and allow that rate schedule to become effective on July 1, 2001, and (3) grant such other waivers and blanket authorizations as have been granted to other power marketers.

Nordic Energy intends to engage in wholesale electric power and energy sales as a marketer, principally by reselling the output of on-site consumer-owned generation facilities, i.e., generation facilities owned by ultimate consumers, located at their business locations, and used primarily for back-up or self-generation. Neither Nordic Energy nor any of its affiliates owns or controls any currently operating or operable generation or transmission facilities, or has a franchised service area for the sale of electricity to captive customers.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. UtiliCorp United Inc.

[Docket No. ER01–2312–000]

Take notice that on June 14, 2001, UtiliCorp United Inc. (UtiliCorp) tendered for filing Service Agreement No. 91 under UtiliCorp's FERC Electric Tariff, Third Revised Volume No. 25, a short-term firm point-to-point transmission service agreement between UtiliCorp's WestPlains Energy-Colorado division and Portland General Electric.

UtiliCorp requests an effective date for the service agreement of May 22, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Metro Energy, L.L.C.

[Docket No. ER01–2317–000]

Take notice that on June 14, 2001, Metro Energy, L.L.C. (Metro Energy), with its principal place of business at 425 South Main Street, Suite 201, Ann Arbor, Michigan 48107, tendered for filing its FERC Electric Tariff No. 1 which will provide for the sale of electric energy and capacity at rates, terms and conditions negotiated and agreed to by Metro Energy and the purchaser. Metro Energy also requests the Commission to grant certain waivers of and blanket approvals under its regulations.

Metro Energy requests waiver of the Commission's 60-day prior notice and filing requirement in order to permit its FERC Electric Tariff, Original Volume No. 1 to become effective as of August 1, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER01–2319–000]

Take notice that the California Independent System Operator Corporation, (ISO) on June 14, 2001, tendered for filing a Participating Generator Agreement between the ISO and Berry Petroleum Company for acceptance by the Commission. The ISO states that this filing has been served on Berry Petroleum Company and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective June 12, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER01–2322–000]

Take notice that the California Independent System Operator Corporation, (ISO) on June 14, 2001, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Berry Petroleum Company for acceptance by the Commission. The ISO states that this filing has been served on Berry Petroleum Company and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective June 12, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Pacific Gas and Electric Company

[Docket No. ER01–2325–000]

Take notice that on June 14, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing a Generator Special Facilities Agreement (GSFA) and a Generator Interconnection Agreement (GIA) between PG&E and Madera Power, LLC (Madera) (collectively Parties) providing for Special Facilities and the parallel operation of Madera's generating facility and the PG&E-owned electric system.

This GSFA permits PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities including the cost of any alterations and additions. As detailed in the GSFA, PG&E proposes to charge Madera a monthly Cost of Ownership Charge equal to the rate for transmission-level, customer-financed facilities in PG&E's currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC). Copies of this filing have been served upon Madera, the California Independent System Operator Corporation, and the CPUC.

PG&E's currently effective rate of 0.31% for transmission-level, customer-financed Special Facilities is contained in the CPUC's Advice Letter 1960–G/1587–E, effective August 5, 1996, a copy of which is included in this filing. PG&E has requested certain waivers.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Virginia Electric and Power Company

[Docket No. ER01–2303–000]

Take notice that, on June 14, 2001, Virginia Electric and Power Company (the Company) filed a service agreement for Aquila Energy Marketing Corporation (AEMC) (Customer) under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6 (the Tariff). A copy of the filing was served upon the Customer.

The Company requests that the Commission make the service agreement effective on May 15, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. PPL Electric Utilities Corporation

[Docket No. ER01–2326–000]

Take notice that on June 14, 2001, PPL Electric Utilities Corporation (PPL Electric Utilities) filed with the Commission a Supplemental Output Interconnection Agreement between PPL Electric Utilities and Northampton Generating Company, L.P. PPL Electric Utilities states that it has served a copy of this filing on Northampton Generating Company, L.P.

PPL Electric Utilities requests that the Commission permit the Supplemental Output Interconnection Agreement to become effective on April 30, 2001.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Tampa Electric Company

[Docket No. ER01–2321–000]

Take notice that on June 14, 2001, Tampa Electric Company (Tampa Electric) tendered for filing pursuant to section 205 of the Federal Power Act a transmission service agreement with Calpine Construction Finance Company, L.P. (Calpine) under Tampa Electric's

Open Access Transmission Tariff. Tampa Electric proposes an effective date of May 15, 2001, for the tendered service agreement, and therefore requests a waiver of FERC's notice requirement. Copies of this filing have been served on Calpine and the Florida Public Service Commission.

Tampa Electric requests an effective date as of May 15, 2001, which is the Agreement's execution date.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15951 Filed 6–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

June 19, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2030–035.

c. *Date Filed:* June 19, 2001.

d. *Applicant:* Portland General Electric Company (PGE).

e. *Name of Project:* Pelton Round Butte Hydroelectric Project.

f. *Location:* The Pelton Round Butte Hydroelectric Project is located on the Deschutes River in Jefferson, Marion, and Wasco Counties, Oregon. The project occupies lands of the Deschutes National Forest; Mt Hood National Forest; Willamette National Forest; Crooked River National Grassland; Bureau of Land Management; and tribal lands of the Warm Springs Reservation of Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Julie Keil, Director of Hydro Licensing and Water Rights, Portland General Electric Company, 121 SW Salmon Street, 3WTC–BRHL, Portland, OR 97204, (503) 464–8864.

i. *FERC Contact:* Questions about this notice can be answered by Nan Allen at (202) 219–2938 or e-mail address: *nan.allen@ferc.fed.us.* The Commission cannot accept comments, recommendations, motions to intervene or protests sent by e-mail; these documents must be filed as described below.

j. *Deadline for filing comments, motions to intervene, and protests:* 14 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Filing:* PGE has filed a request to amend the project license to permit installation of a 70-kilowatt generating unit on the west grout tunnel at the Round Butte development. This tunnel drains ground water from the dam area and provides a steady flow of about 24 cfs at about 55 feet of head. PGE proposes to use generation from this unit for station service, allowing additional project generation to be delivered to PGE's system. PGE's analysis shows that the additional generation would be about 382 megawatt hours annually. In its request, PGE said that the unit would be fabricated offsite and all onsite installation would be completed out of water. Other generating units in the powerhouse would operate normally during installation.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may be become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also

be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15954 Filed 6–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing with the Commission and Soliciting Additional Study Requests

June 20, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 362–004.

c. *Date filed:* June 1, 2001.

d. *Applicant:* Ford Motor Company.

e. *Name of Project:* Ford Hydroelectric Project.

f. *Location:* On the Mississippi River, at mile 847.6 above the mouth of the Ohio River, on the U.S. Army Corps of Engineers' Lock and Dam No. 1, between Minneapolis and St. Paul, Minnesota. The project is partially located within federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* George Waldow, HDR Engineering, Inc., 6190 Golden Hills Drive, Minneapolis, Minnesota 55416, (763) 591–5485.

i. *FERC Contact:* Sergiu Serban, E-mail address *sergiu.serban@ferc.fed.us.* or telephone (202) 501–6935.

j. *Deadline Date:* July 30, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426.

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The proposed project would utilize the U.S. Army Corps of Engineers' Lock and Dam No. 1 and would consist of the following facilities: (1) an existing powerhouse integral with the dam having a total installed capacity of 18,000 kilowatts; and (2) appurtenant facilities. The average annual generation is estimated to be 97 gigawatthours.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the *Minnesota State Historic Preservation Officer (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15955 Filed 6–25–01; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL ELECTION COMMISSION

[Notice 2001–8]

Filing Dates for the Massachusetts Special Election in the 9th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Massachusetts has scheduled special elections on September 11, 2001, and October 16, 2001, to fill the U.S. House of Representatives seat in the Ninth Congressional District held by the late John Joseph Moakley.

Committees required to file reports in connection with the Special Primary Election on September 11, 2001, should file a 12-day Pre-Primary Report on August 30, 2001. Committees required to file reports in connection with both the Special Primary and Special General Election on October 16, 2001, should file a 12-day Pre-Primary Report, a 12-day Pre-General Report on October 4, 2001, and a Post-General Report on November 15, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Scott, Information Division, 999 E Street, N.W., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates participating in the Massachusetts Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on August 30, 2001; a Pre-General Report on October 4, 2001; and a Post-General Report on November 15, 2001. (See chart below for the closing date for each report).

All principal campaign committees of candidates *only* participating in the Massachusetts Special Primary Election shall file a 12-day Pre-Primary Report on August 30, 2001. (See chart below for the closing date for the report).

Unauthorized Committees (PACs and Party Committees)

Political committees that file on a semiannual basis during 2001 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Massachusetts Special Primary or Special General Elections by the close of books for the applicable report(s). Consult the chart below that corresponds to the committee's situation for close of books and filing date information.

Committees filing monthly that support candidates in the Massachusetts Special Primary or Special General Elections should continue to file according to the non-election year monthly reporting schedule.

CALENDAR OF REPORTING DATES FOR MASSACHUSETTS SPECIAL ELECTIONS

Report	Close of books [1]	Reg./Cert. mailing date [2]	Filing date
Committees Involved in *Only* the Special Primary (09/11/01) Must File:			
Pre-Primary	08/22/01	08/27/01	08/30/01
Year-End	12/31/01	01/31/02	01/31/02
Committees Involved in Both the Special Primary (09/11/01) and Special General (10/16/01) Must File:			
Pre-Primary	08/22/01	08/27/01	08/30/01
Pre-General	09/26/01	10/01/01	10/04/01
Post-General	11/05/01	11/15/01	11/15/01
Year-End	12/31/01	01/31/02	01/31/02
A Committee Involved in *Only* the Special General (10/16/01) Must File:			
Pre-General	09/26/01	10/01/01	10/04/01
Post-General	11/05/01	11/15/01	11/15/01
Year-End	12/31/01	01/31/02	01/31/02

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
[2] Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

Dated: June 21, 2001.

David M.Mason,

Vice Chairman, Federal Election Commission.

[FR Doc. 01–15984 Filed 6–25–01; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1370–DR]

Minnesota; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota (FEMA–1370–DR), dated May 16, 2001, and related determinations.

EFFECTIVE DATE: June 19, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the reopening of the incident period for this disaster. The incident period for this declared disaster is now March 23, 2001 and continuing.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–15929 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1379–DR]

Texas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas, (FEMA–1379-DR), dated June 9, 2001, and related determinations.

EFFECTIVE DATE: June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 9, 2001:

Grimes and Harrison Counties for Individual Assistance

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–15931 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1378–DR]

West Virginia; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of West Virginia, (FEMA–1378–DR), dated June 3, 2001, and related determinations.

EFFECTIVE DATE: June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of West Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 3, 2001:

Preston County for Individual Assistance

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–15930 Filed 6–25–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: *Federal Reserve Board Clearance Officer*—Mary M. West—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829);

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7860).

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Report

Report title: Written Security Program for State Member Banks.

Agency form number: FR 4004.

OMB control number: 7100–0112.

Frequency: On occasion.

Reporters: State member banks.

Annual reporting hours: 47 hours.

Estimated average hours per response: 0.5 hours.

Number of respondents: 94.

Small businesses are affected.

General description of report: This recordkeeping requirement is mandatory (12 U.S.C. 1882), 12 U.S.C. 248(a)(1) and 325, and Regulation H (12 CFR, part 208.61) authorize the Board to require the recordkeeping of this information. Because written security programs are maintained at state member banks, no issue of confidentiality under the Freedom of Information Act normally arises. However, copies of such documents included in examination work papers would, in such form, be confidential pursuant to exemption 8 of the Freedom of Information Act (5 U.S.C. 552(b)(8)).

Abstract: This mandatory information collection is a recordkeeping requirement contained in the Federal Reserve's Regulation H, Section 208.61. Each state member bank must develop and implement a written security program and maintain it in the bank's records. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Board of Governors of the Federal Reserve System, June 21, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–16012 Filed 6–25–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 20, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Speer Bancshares, Inc., Speer, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Speer, Speer, Illinois.

Board of Governors of the Federal Reserve System, June 21, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–16013 Filed 6–25–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Monday, July 2, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at

approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: June 22, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–16089 Filed 6–22–01; 11:08 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Correction.

SUMMARY: A notice beginning on page 27974 in the issue of May 21, 2001, entitled ''Findings of Scientific Misconduct'' is hereby reprinted in its entirety to correctly represent the position of Dr. Saleh with respect to the Voluntary Exclusion Agreement that was omitted in the original printing.

Ayman Saleh, Ph.D., University of Pittsburgh: Based on the report of an inquiry conducted by the University of Pittsburgh and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Dr. Saleh, former postdoctoral research associate, School of Medicine, University of Pittsburgh, engaged in scientific misconduct in research supported by the National Institutes of Health.

PHS finds that Dr. Saleh falsified:

(A) Data for a manuscript which purported to show Western blots of rabbit Bcl–2 and tubulin; the blots were actually obtained from different experiments by another researcher using antibody against Hsp70 and against Bag-1, respectively;

(B) The label on a Western blot for Bcl-2 that he presented to the inquiry committee as evidence that he had conducted the experiment at issue; the blot was actually from a different experiment by a coworker;

(C) Data for a laboratory figure purported to represent a rabbit PARP cleavage blot; the data was from another experiment, and the antibody to PARP was not available to Dr. Saleh at that time;

(D) Western blot data on pcasp–9 and p37/p35 for a manuscript on Hsp27; the data represented experiments that could not be performed because the cell lines were unavailable at the time; and

(E) Figure 2b, the panel that shows a Western blot of Casp–9(WT) in a publication by Srinivasa M. Srinivasula, Ramesh Hegde, Ayman Saleh, Pinaki Datta, Eric Shiozaki, Jijie Chais, Ryung-Ah Lee, Paul D. Robbins, Theresa Fernandes-Alnemri, Yigong Shi, and Emad S. Alnemri. ''A conserved XIAP-interaction motif in caspase–9 and Smac/DIABLO regulates caspase activity and apoptosis.'' Nature 410(6824):112–116, 2001. The Figure 2b data were actually taken from a Western blot of Bcl–XL data, in which Dr. Saleh transposed the lanes.

The experiments examined the regulation of programmed cell death (apoptosis), a process that is important to a better understanding of cancer. Figure 2b in the Nature paper represented a control experiment that confirmed the association of an X-linked gene to a particular type of apoptosis.

While neither accepting nor admitting to the findings of scientific misconduct, Dr. Saleh has entered into a Voluntary Exclusion Agreement with PHS in which he has voluntarily agreed for a period of three (3) years, beginning on May 3, 2001:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR Part 76 (Debarment Regulations);

(2) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris Pascal,

Director, Office of Research Integrity.

[FR Doc. 01–15913 Filed 6–25–01; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget for Clearance

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, has submitted the following proposal for the collection of information in compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511): State Annual Long-Term Care Ombudsman Report and Instructions.

Type of Request: Extension of a currently approved collection.

Use: Extension of reporting format for use by states in reporting on activities of their Long-Term Care Ombudsman Programs, as required under section 712 of the Older Americans Act, as amended.

Frequency: Annually.

Respondents: State Agencies on Aging.

Estimated Number of Responses: 52.

Total Estimated Burden Hours: 7,235.

Additional Information or Comments: The Administration on Aging has submitted to the Office of Management and Budget, for approval, an extension, with no revisions, of a reporting form and instructions for the State Annual Long-Term-Care Ombudsman Report, pursuant to requirements in Section 712(b) and (h) of the Older Americans Act. AoA published in the March 13, 2001 **Federal Register** a notice that it planned to request the extension and inviting comments; no comments were received. The form is currently being evaluated for possible revision to reflect additional programmatic reporting needs. However, this should not affect the PRA clearance process. Written comments and recommendations for the proposed information collection should be sent within 30 days of the publication of this notice directly to the following address: Office of Regulatory Affairs, Atten: Allison Herron Eydt, OMB Desk Officer, Room 10325, Washington, DC 20201.

Dated: June 15, 2001.

Norman L. Thompson,

Acting Principal Deputy Assistant Secretary for Aging.

[FR Doc. 01–15919 Filed 6–25–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 26, 2001, 8:30 a.m. to 5:30 p.m., and on July 27, 2001, 8:30 a.m. to 3:30 p.m.

Location: Holiday Inn, Grand Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Nancy T. Cherry or Denise H. Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12391. Please call the Information Line for up-to-date information on this meeting.

Agenda: On July 26, 2001, the committee will hear presentations on the available safety and efficacy data for Aviron, Inc.'s cold adapted, live attenuated, trivalent influenza virus vaccine (FluMist™). On July 27, 2001, the committee will discuss the available data and the proposed indications for FluMist™.

Procedure: On July 26, 2001, from 10:15 a.m. to 5:30 p.m., and on July 27, 2001, from 8:30 a.m. to 3:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 8, 2001. On July 27, 2001, oral presentations will be held between approximately 9 a.m. and 10:15 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 8, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On July 26, 2001, from 8:30 a.m. to 10:15 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)).

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 19, 2001.

Bonnie Malkin,

Special Assistant to the Senior Associate Commissioner.

[FR Doc. 01–15912 Filed 6–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0232]

Medical Devices Premarket Guidance: Reprocessing and Reuse of Single-Use Devices; Draft Guidance for Industry and FDA Staff; Availability; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of June 1, 2001 (66 FR 29822). The document announced the availability of the draft guidance entitled ''Premarket Guidance: Reprocessing and Reuse of Single-Use Devices; Draft Guidance for Industry and FDA Staff.'' The document published inadvertently omitting the address for the Dockets Management Branch. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy, Planning, and Legislation (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Friday, June 1, 2001, in FR Doc. 01–13731, on page 29822, in the third column, correct the **ADDRESSES** caption to read:

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled ''Premarket Guidance: Reprocessing and Reuse of Single-Use Devices; Draft Guidance for Industry and FDA Staff'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

Dated: June 19, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–15911 Filed 6–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–4019–N]

Medicare Program: Meeting of the Advisory Panel on Medicare Education—July 12, 2001

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 10(a)(1) and (a)(2) (Pub. L. 92–463), this notice announces a meeting of the Advisory Panel on Medicare Education (the Panel) on July 12, 2001. This meeting is open to the public.

DATES: *The Meeting.* The meeting is scheduled for July 12, 2001, from 9 a.m. to 5 p.m., E.D.T

Deadline for Presentations and Comments: July 5, 2001, 12 noon, E.D.T.

ADDRESSES: The meeting will be held at the Holiday Inn on the Hill, 415 New Jersey Avenue, NW., Washington, DC, 20001, (202) 638–1616.

FOR FURTHER INFORMATION CONTACT: Nancy Caliman, Health Insurance Specialist, Partnership Development Group, Center for Beneficiary Services, Health Care Financing Administration, 7500 Security Boulevard, S2–23–05, Baltimore, MD 21244–1850, (410) 786–5052. Please refer to the HCFA Advisory Committees Information Line (1–877–449–5659 toll free)/(410–786–9379 local) or the Internet (http://www.hcfa.gov/events/apme/homepage.htm) for additional information and updates on committee activities, or contact Ms. Caliman via E-mail at APME@hcfa.gov. Press inquiries are handled through the HCFA Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION: Section 222 of the Public Health Service Act (42 U.S.C. 217a), as amended, grants to the Secretary of the Department of Health and Human Services (the Secretary) the authority to establish an advisory panel if the Secretary finds the panel necessary and in the public interest. The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7849) and approved the renewal of the charter on January 18, 2001. The Panel advises and makes recommendations to the Secretary and the Administrator of the Health Care Financing Administration (the Administrator) on opportunities for HCFA to optimize the effectiveness of the National Medicare Education Program and other HCFA programs that help Medicare beneficiaries understand Medicare and the range of Medicare options available with the passage of the Medicare+Choice Program.

The goals of the Panel are as follows:

- To develop and implement a national Medicare education program that describes the options for selecting a health plan under Medicare.
- To enhance the Federal government's effectiveness in informing the Medicare consumer, including the appropriate use of public-private partnerships.
- To expand outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of a national Medicare education program.
- To assemble an information base of best practices for helping consumers evaluate health plan options and build a community infrastructure for information, counseling, and assistance.

The current members of the Panel are: Diane Archer, J.D., President, Medicare Rights Center; David Baldridge, Executive Director, National Indian Council on Aging; Bruce Bradley, M.B.A., Director, Managed Care Plans, General Motors Corporation; Carol Cronin, Chairperson, Advisory Panel on Medicare Education; Joyce Dubow, M.U.P., Senior Policy Advisor, Public Policy Institute, AARP; Jennie Chin Hansen, Executive Director, On Lok Senior Health Services; Elmer Huerta, M.D., M.P.H., Director, Cancer Risk and Assessment Center, Washington Hospital Center; Bonita Kallestad, J.D., M.S., Mid Minnesota Legal Assistance; Steven Larsen, J.D., M.A., Maryland Insurance Commissioner, Maryland Insurance Administration; Brian Lindberg, M.M.H.S., Executive Director, Consumer Coalition for Quality Health Care; Heidi Margulis, B.A., Vice President, Government Affairs, Humana, Inc.; Patricia Neuman, Sc.D., Director, Medicare Policy Project, Henry J. Kaiser Family Foundation; Elena Rios, M.D., M.S.P.H., President, National Hispanic Medical Association; Samuel Simmons, B.A., President and CEO, The National Caucus and Center on Black Aged, Inc.; Nina Weinberg, M.A., President, National Health Council; and Edward Zesk, B.A., Executive Director, Aging 2000.

The agenda for the July 12, 2001 meeting will include the following:

- Recap of the previous (April 26, 2001) meeting.
- HCFA update/issues.
- Role of the Social Security Administration in Medicare.
- Medicare education operating priorities for 2002.
- Medicare education budget 2003.
- Annual report of the Advisory Panel on Medicare Education.
- Public comment.

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should contact Ms. Caliman by 12 noon, July 5, 2001. A written copy of the oral presentation should also be submitted to Ms. Caliman by 12 noon, July 5, 2001. The number of oral presentations may be limited by the time available. Individuals not wishing to make a presentation may submit written comments to Ms. Caliman by 12 noon, July 5, 2001. The meeting is open to the public, but attendance is limited to the space available. Individuals requiring sign language interpretation for the hearing impaired or other special accommodations should contact Ms. Caliman at least 15 days before the meeting.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 19, 2001.

Thomas A. Scully,

Administrator, Health Care Financing Administration.

[FR Doc. 01–15947 Filed 6–25–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Training and Technical Assistance; Cooperative Agreement Announcement

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds; Request for applications.

SUMMARY: The Health Resources and Services Administration (HRSA) announces the availability of fiscal year (FY) 2001 funds for an open competition for one cooperative agreement with a national organization for a total amount of $200,000. The goal of the cooperative agreement is to assist people who work in Eligible Metropolitan Areas (EMAs) under the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act to understand and put into action the requirements of the CARE Act as reauthorized in October 2000.

Program Purpose: The applicant will transfer knowledge and provide practical help to a diverse group of people working in HIV-related programs that are located in EMAs regarding the new legislative requirements of the CARE Act. Recipients will include administrative and direct service staff of State/local AIDS programs, State/local health departments, agencies funded by the CARE Act, other AIDS Service Organizations (ASO) and Community Based Organizations (CBO), members of CARE Act planning bodies, and consumers.

Program Requirements: Applicants must propose a plan that will help achieve the purpose through one or more of the following six program objectives. Each program objective directly relates to one of the legislative requirements of the new CARE Act.

(1) Increase the number of people with a history of homelessness, substance abuse, and correctional detention, who are members of Title I CARE Act Planning Councils, or regularly attend or actively participate in Planning Council meetings.

(2) Increase the ability of CARE Act administrators, planning bodies and care providers to identify the unmet needs of PLWH who are not in care, to bring them into care, and to keep them in care.

(3) Increase the number of formal linkages and referral agreements among providers of HIV social support services, HIV prevention services, and HIV care

and treatment services to improve health outcomes.

(4) Increase the number of formal linkages or referral agreements among publicly-funded programs (e.g., CARE Act, Medicaid, family planning, substance abuse, Children's Health Insurance Program), to collaborate on HIV service delivery and planning.

(5) Increase the knowledge of CARE Act administrators, planning bodies and care providers of models and best practices for continuous quality improvement and quality management.

(6) Increase staff abilities and service capacity in organizations serving underserved communities severely impacted by HIV/AIDS.

Under this Cooperative Agreement, HRSA will provide input and be involved actively in the planning and implementation of activities supported by these funds. Proposed activities must support the mutual goals and objectives of HRSA and the applicant.

Service Area: The geographic service area includes the 51 Title I EMAs across the United States, including the Commonwealth of Puerto Rico and the District of Columbia.

Eligible Applicants: Public or private non-profit organizations with a national membership or constituency whose mission is to address the needs of people who work with HIV/AIDS related programs and consumers of HIV/AIDS services. The applicant must have representatives from Ryan White CARE Act Title I EMAs within its membership or constituency. The applicant must have a history of developing and disseminating informational materials and providing training and technical assistance to HIV/AIDS related organizations within the past 3 years. The applicant must also have experience working on initiatives addressing the needs of Title I EMAs. National organizations that currently have Technical Assistance Cooperative Agreements with the HIV/AIDS Bureau are not eligible to apply.

Availability of Funds: One cooperative agreement will be competitively awarded for a total amount up to $200,000. It is expected that the award will be made by September 30, 2001. Funding will be made available for a 12-month budget period, with a project period of up to 3 years contingent upon the availability of funds and satisfactory performance.

Authorization: Title XXVI, Part F of the Public Health Service Act, (Title 42, USC), as amended by Public Law 106–345 the Ryan White CARE Act Amendments of 2000, dated October 20, 2000.

Application Dates: In order to be considered for this competition, applications must be received at the HRSA Grants Application Center by close of business on *August 10, 2001.* Applications shall be considered as meeting the deadline if they are: (1) Received on or before the deadline, or (2) Postmarked on or before the deadline date and received in time for orderly processing and submission to the review committee. Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service postmark. Private metered postmarks shall not be acceptable as proof of mailing. Applications received after the deadline will be returned to the applicant and not reviewed.

Application Materials: The Training and Technical Assistance Cooperative Agreement Guidance is available on the HIV/AIDS Bureau web site at the following Internet address: *http://www.hrsa.gov/hab.* The required Federal grant application form (PHS 5161–1) is available at the following Internet address: *http://forms.psc.gov/forms/PHS/phs.html.* For those applicants who are unable to access application materials electronically, hard copies must be obtained from the HRSA Grants Application Center, telephone number (877) 477–2123, fax number is (877) 477–2345, and e-mail address *hrsagac@hrsa.gov.*

FOR FURTHER INFORMATION CONTACT: Additional technical information may be obtained from Rene Sterling, HIV/AIDS Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–36, Rockville, MD 20857. The telephone number is (301) 443–7778, the fax number is (301) 594–2835, and the e-mail address is *Rsterling@hrsa.gov.*

Dated: June 19, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–15965 Filed 6–25–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Maternal and Child Health Federal Set-Aside Program; Special Projects of Regional and National Significance; Partnership for Information and Communication Cooperative Agreement

AGENCY: Health Resources and Services Administration (HRSA), DHHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that up to $750,000 in fiscal year (FY) 2001 funds is available to fund one cooperative agreement under the Partnership for Information in Communication (PIC) program activity. This award will be made under the program authority of section 501(a)(2) of the Social Security Act, the Maternal and Child Health (MCH) Federal Set-Aside Program (42 USC 701(a)(2)). Within the HRSA, grants and cooperative agreements for Special Projects of Regional and National Significance (SPRANS) under this authority are administered by the Maternal and Child Health Bureau (MCHB). This announcement solicits applications only from national membership organizations representing certified pediatric care providers. The award for this PIC competition will be made for a four-year grant period, with continuation after the first year subject to satisfactory performance and the continued availability of funds. Funds will come from SPRANS funds appropriated under Public Law 106–554.

DATES: Entities which intend to submit an application for this cooperative agreement are expected to notify MCHB's Division of Child, Adolescent and Family Health of their intent by July 11, 2001. The deadline for receipt of applications is August 10, 2001. Applications will be considered ''on time'' if they are either received on or before the deadline date or postmarked on or before the deadline date. The projected award date is September 3, 2001.

ADDRESSES: To receive a complete application kit, applicants may telephone the HRSA Grants Application Center at 1–877–477–2123 (1–877–HRSA–123) beginning June 26, 2001, or register on-line at: *http://www.hrsa.gov/__order3.htm* directly. The PIC program uses the standard Form PHS 5161–1 (Rev.7/00). Applicants must use Catalog of Federal Domestic Assistance (CFDA) #93.110G when requesting application kits. The CFDA is a Government wide compendium of enumerated Federal programs, project services, and activities which provide assistance. All applications should be mailed or delivered to Grants Management Officer, MCHB: HRSA Grants Application Center, 1815 N. Fort Meyer Drive, Suite 300, Arlington , Virginia 22209: telephone 1–877–477–2123: E-mail: *hrsagac@hrsa.gov.*

Necessary application forms and an expanded version of this **Federal Register** notice may be downloaded in either Microsoft Office 2000 or Adobe Acrobat format (.pdf) from the MCHB Home Page at *http://www.mchb.hrsa.gov*. Please contact Joni Johns, at 301/443–2088, or *jjohns@hrsa.gov/*, if you need technical assistance in accessing the MCHB Home Page via the Internet.

This notice will appear in the **Federal Register** and the HRSA Home Page at *http://www.hrsa.dhhs.gov/*. **Federal Register** notices are found on the World Wide Web by following instructions at: *http://www.access.gpo.gov/su__docs/aces/aces140.html*.

Letter of Intent: Notification of intent to apply can be made in one of three ways: telephone, 301/443–4996; email, *smartone@hrsa.gov/*; mail, Office of Adolescent Health, MCHB, HRSA; Division of Child, Adolescent and Family Health; Parklawn Building, Room 18A–30; 5600 Fishers Lane; Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Suzanne Martone, 301/443–4996, email: *smartone@hrsa.gov/* (for questions specific to project objectives and activities of the program; or the required Letter of Intent, which is further described in the application kit); Curtis Colston, 301/443–3438, email *ccolston@hrsa.gov/* (for grants policy, budgetary, and business questions).

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

The PIC program was established by MCHB in 1990 as a SPRANS initiative to develop, strengthen and maintain communication among governmental, professional and private organizations representing leaders and policy makers on issues concerning maternal and child health. The program provides a mechanism for communication and collaboration between and among the PIC member organizations. The unifying factor is a strong commitment to the development, improvement and maintenance of health care systems as the framework for improved maternal and child health status. PIC member organizations, with assistance from MCHB, utilize the cooperative agreement to: (1) Disseminate new information about maternal and child health in a format most useful to policy and decision makers concerned with developing MCH policies and programs in the public and private sectors at local, State and national levels; (2) facilitate understanding of the maternal and child health concerns held by policy and decision makers representing PIC member organizations; (3) communicate to the PIC member organizations and/or their constituencies the position of MCHB, HRSA and key Federal agencies on critical issues; (4) facilitate the exchange of views among PIC member organizations and/or their constituencies concerning existing and proposed Federal and State policies and positions on MCH-related issues and concerns; and (5) identify, create and expand opportunities for collaboration and coordinated effort in response to new, emerging or ongoing MCH issues or concerns or issues with the potential to impact MCH populations or programs.

As with existing PIC cooperative agreements for other organization categories, this cooperative agreement is expected to assure improved maternal and child health status through improved health care systems. The grantee and the MCHB determine what MCH issues will be addressed, what information will be transmitted, how that information will be transmitted, and how responses to the information will be followed up.

Specific issues to be addressed in this cooperative agreement include: (1) Assisting pediatric practitioners in developing components of a ''medical home,'' as defined by the American Academy of Pediatrics (AAP). Of particular concern is the capacity of the pediatric practitioner to link with other community resources in a timely fashion to meet the needs of children and their families, to assure a smooth referral of patients and families to those resources, and to assure effective communication among care providers to the benefit of children and their families. Integration of the concepts found in Bright Futures and the Healthy Steps initiative into the medical home is another area of interest; (2) promoting the concept of ''family pediatrics'' by recognizing the impact of psychosocial issues of the family, both as individuals and as a group, on children and the resources needed by families to parent effectively, and developing a comprehensive plan to assist practicing pediatricians to improve their capacity to deliver family-oriented care; (3) assisting in developing the capacity of pediatric care providers to recognize family mental health issues, to develop appropriate response plans, and to identify and collaborate with community resources to meet the mental health needs of their patients and families; (4) reviewing the functions of pediatric practice in the U.S. as compared to other countries (e.g., Great Britain); (5) assisting in developing the role of pediatricians in the provision of oral health services and in collaborating with dentists and other oral health practitioners to provide early and appropriate oral health care for children; (6) contingent upon the continued availability of funds, assisting States, Territories, Tribes and communities in developing and strengthening linkages between pediatricians and child care, other health care and family support services via the Healthy Child Care America campaign. This is an activity for which the AAP, with support from MCHB and the Administration on Children and Families' Child Care Bureau, assumed coordination in October 1996.

Authorization

Section 501(a)(2) of the Social Security Act, the MCH Federal Set-Aside Program (42 USC 701(a)(2)).

Purpose

The purpose of this announcement is to solicit applications for a PIC cooperative agreement from national membership organizations representing certified pediatric care providers.

The overall purpose of PIC is to facilitate, through cooperative agreements with major governmental, professional and private organizations representing leaders concerned with issues related to maternal and child health, the dissemination of new information in a format that will be most useful to them when developing MCH policies and programs in the private and public sectors at local, state and national levels. The forum offered by PIC provides those individuals and organizations a means of communicating issues directly to each other and with MCH programs at all levels.

Organizations currently receiving support as part of this cooperative agreement represent State governors and their staffs; State legislatures and their staffs; State, city and county local health officials; city and county health policymakers; municipal policymakers; private business; philanthropic organizations; families of children with special health needs; nonprofit and/or for-profit managed care organizations; coalitions of organizations promoting the health of mothers and infants and; national membership organizations representing survivors of traumatic brain injury (TBI), providers of emergency medical care for children, and State EMSC programs.

Eligibility

Under SPRANS project grant regulations at 42 CFR 51a.3, any public

or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b), is eligible to apply for grants covered by this announcement.

Preference

For this competition, preference will be given to national membership organizations representing certified pediatric care providers. Specific issues of importance to be addressed in this cooperative agreement include: medical home; family pediatrics; mental health; the role of the pediatrician in pediatric care; oral health; and the Healthy Child Care America Campaign, which is dedicated to expanding the use of national health and safety standards in organized day care settings.

Funding Level/Project Period

Approximately $750,000 is available to support this award in FY 2001, with a project period of up to four years. Continuation in funding of the project from one budget period to the next is subject to satisfactory performance, availability of funds, and program priorities. The initial budget period is expected to be 12 months, with subsequent budget periods being 12 months.

Funding Mechanism

The administrative and funding instrument to be used for this project will be a cooperative agreement, in which substantial MCHB scientific and/or programmatic involvement with the awardee is anticipated during the performance of the project. Under the terms of this Cooperative Agreement, in addition to the required monitoring and technical assistance provided under grants, Federal responsibilities will include:

(1) Assurance of the availability of the services of experienced Federal personnel to participate in the planning and development of all phases of this activity.

(2) Participation in meetings and seminars conducted during the period of the Cooperative Agreement.

(3) Review and approval of procedures established for carrying out the scope of work.

(4) Assistance in establishing and maintaining Federal interagency and interorganizational contacts necessary to carry out the project.

(5) Participation in the dissemination of information about project activities.

(6) Facilitation of effective project communications and accountability to MCHB/HRSA, with special attention to new program initiatives and policy development in the public health field relating to maternal and child health.

Review Criteria

The following review criteria will be used to evaluate applications for this program:

(1) *Representational Capacity of Applicant.* The extent to which the applicant provides evidence of the capacity to identify and represent the interest and concerns of pediatric care providers.

(2) *Specific Issues and General Concerns in Maternal and Child Health.* The extent to which the applicant identifies and describes programmatic issues that further the purposes of maternal and child health and are of concern to both the MCHB and to the applicant, analyzes factors relevant to these issues, and determines their susceptibility to change.

(3) *Strategies for Addressing Problems.* The extent to which the applicant discusses methods for achieving a functional collaboration with MCHB that addresses items relating to the ''Purpose,'' in item (2), above; and also addresses any issues relating to ''Identification and Analysis,'' in item (2), above. This discussion is expected to include clear descriptions of: (a) How the applicant organization plans to improve transmission to its target population of information available from the Federal Government about important maternal and child health issues; and (b) how the applicant organization plans to initiate or increase dialogue between organization members and the Federal Government in order to improve prospects for effective maternal and child health programming.

(4) *Monitoring and Evaluation.* The extent to which the applicant describes how the project staff will determine the successful conduct and completion of proposed activities, based on the objectives outlined. All key activities that are tracked must be identified and measured as to the achievement of project goals and objectives.

(5) *Capabilities of the Applicant.* The extent to which the applicant demonstrates that it is capable of successfully carrying out the project, including: (a) The sufficiency of proposed resources; and (b) the number and adequacy of proposed project personnel, based on curricula vitae that document education, skills and experience relevant and necessary for the proposed project.

(6) *Budget Justification.* The extent to which the applicant documents how it plans to support the activities outlined in the budget and justifies how each requested item was determined relative to the project plan, including (a) The number of person-hours for each staff person, in terms of the project activities requiring the knowledge, skills, and experience of each person; and (b) travel times, equipment, contractual services, supplies, and other categories. A description of contractual services that the applicant plans to use, including the purpose, scope and project cost of the contract. The derivation of travel costs includes who, where, length of time, purpose, and associated costs of each proposed trip.

Additional criteria may be used to review and rank applications for this competition. Any such criteria will be identified in the application kit. Applicants should pay strict attention to addressing these criteria in addition to those referenced above. Also, to the extent that regulatory review criteria generally applicable to all Title V programs (at 42 CFR 51a) are relevant to this specific project, such factors will be taken into account.

OMB approval for any data collection in connection with this cooperative agreement will be sought, as required under the Paperwork Reduction Act of 1995.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprized of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 525).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

Executive Order 12372

This program has been determined to be a program which is not subject to the

provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate State and local officials.

Dated: June 19, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–15966 Filed 6–25–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of A Cooperative Agreement To Support Innovative Projects Relating to Public Health Education and Services

The Health Resources and Services Administration announces that applications will be accepted for a Cooperative Agreement for fiscal year (FY) 2001 to plan, develop, and implement a series of collaborative projects relating to public health education and special projects. This Cooperative Agreement is expected to support a program of innovative training and education projects to demonstrate the sharing of expertise between public health faculty and public health practitioners in State and local communities. The goal of the Cooperative Agreement is to improve public health, public health services, and health care services at the State and local community levels while providing meaningful feedback to schools of public health concerning the efficacy of their curricula in educating and training the future and existing public health workforce.

There are three purposes for this Cooperative Agreement: (1) To develop training, placement, recruitment and retention mechanisms to address the shortfall of individuals in various public health disciplines and professions as defined by the Bureau of Labor Statistics Standard Occupational Classification; (2) to strengthen and institutionalize practice oriented linkages between the schools of public health and the public health practice community so that individuals are better trained to meet the needs of HRSA-sponsored grantees in community settings; and (3) to provide assistance in curricula development and related initiatives that will address the need for better educated and culturally competent entry-level and mid-level public health practitioners in public health practice settings.

Activities under this Cooperative Agreement must include:

(1) The convening of communities of interest, including rural organizations, to produce policy recommendations to HRSA to improve education, training, recruitment, and diversification of the public health workforce, especially as it impacts the needs of underserved communities.

(2) The development of an internship and fellowship program for students and graduates of schools of public health to provide exposure and work experience in front line urban and rural public health agencies, organizations, and systems, and policy/program development.

(3) The analysis of training, delivery methods and new technologies for adult learners.

(4) The establishment of a geographically diverse Steering Committee for the development and pilot testing of activities to provide technical assistance to public health practice sites.

(5) The establishment of linkages between academic training institutions and public health practice organizations to demonstrate innovative models and initiatives supportive of academic practice.

(6) The improvement of public health research in urban and rural community populations and linkages with these stakeholders and other national associations to highlight both public health education and the efficient delivery of health services, especially as it impacts the needs of underserved communities and minority and disadvantaged practitioners.

(7) The coordination of the development of curricula that support health care delivery and health service projects funded by HRSA.

(8) The evaluation of outcome measures and performance standards used by HRSA's public health programs for the delivery of various health services, patient health status, consumer satisfaction, systems of care and quality.

Authorizing Legislation

This Cooperative Agreement is solicited under the authority of title VII, section 765 of the Public Health Service (PHS) Act, as amended. Section 765 authorizes the award of grants to increase the number of individuals in the public health workforce, to enhance the quality of such workforce, and to enhance the ability of the workforce to meet national, State, and local health care needs.

The Federal role in the conduct of this Cooperative Agreement is substantial and will be maintained by the Bureau of Health Professions (BHPr) staff through technical assistance and guidance to the awardee considerably beyond the normal stewardship responsibilities in the administration of grant awards. Such activities under this Cooperative Agreement include the:

(a) Planning, development, and implementation of all phases of the program, including consultation regarding contracts, agreements, and sub-awards developed, as well as participation in the review and selection of contracts, agreements and sub-awards;

(b) Participation in the development of all curricula for the program, and approval of the content and delivery of training experiences;

(c) Participation in the development of an evaluation plan for the project initiated at the inception of the project;

(d) Assistance with identification of Federal and other organizations with whom collaboration is essential in order to further the Cooperative Agreement's mission and to develop specific strategies to support the work of these related activities;

(e) Participation in the development of funding projections;

(f) Participation in the development of data collection systems and procedures;

(g) Participation in all appropriate meetings, committees, subcommittees, and working groups related to this Cooperative Agreement and its projects, as well as site visits;

(h) Participation in the review of curricula vitae documenting credentials and experience for the Steering Committee, key faculty, and key staff before commitments are made by the awardee;

(i) Participation in the identification of emerging health management practice issues for technical assistance purposes;

(j) Identification of HRSA programmatic issues for special attention through the Cooperative Agreement;

(k) Identification of appropriate consultation for proposed projects, and/or annual plans for any succeeding project years;

(l) Assistance in defining the objective, method, evaluation and use of project results and translation into the knowledge, skills, and attributes for educational objectives,

(m) Assistance in ensuring appropriate linkages with public health practice, health services, and health care delivery sites; and

(n) Participation in monitoring the implementation, conduct and results of projects implemented under this Cooperative Agreement.

The BHPr's Center for Public Health will provide technical assistance for this Cooperative Agreement.

Availability of Funds

Up to $700,000 will be available in FY 2001 to fund this Cooperative Agreement. Funding will be for a 5-year project period. It is expected the award will be made on or before September 30, 2001. Continuation awards beyond the first year of the project period will be based on the achievement of satisfactory progress and the availability of funds.

Background

As part of its overall mission, HRSA is responsible for providing national leadership to assure that high quality health care and public health services are provided to the most vulnerable populations in the Nation. HRSA is also responsible for improving the basic and continuing education of public health professionals to assess, develop and assure that a high level of services is available to these vulnerable populations. In carrying out this responsibility, HRSA works collaboratively with educational institutions, especially schools of public health and with professional organizations to develop and implement improved basic and continuing education curricula to assure competent public health practice and leadership in the United States.

It has been recognized that the quality, number and diversity of public health personnel plays a critical role in the promotion of health, prevention and control of disease, and the management of health resources. The principal purpose of schools of public health is to promote and improve the education and training of professional public health personnel.

An area of major concern to HRSA is the lack of individuals trained and prepared to manage and/or provide services in community settings. It is these settings where a majority of HRSA funding and attention is directed, because it is at the community-level that our most vulnerable populations need care. The disconnect between public health training and community settings where these individuals are needed continues to be a significant problem in public health and for the efficient delivery of HRSA-sponsored care and services.

A second major concern of HRSA is over the low number of faculty, students and practitioners from minority backgrounds in academic and practice settings. The schools of public health can play a crucial role in alleviating these shortcomings, especially in training minority and disadvantaged public health workers. HRSA is proposing to develop a range of activities utilizing the strengths of the schools of public health to address the identified as well as emerging concerns. This Cooperative Agreement will serve as an incentive to the academic public health community to become more involved in public health practice issues, increase the number of minority professionals working in public health settings, and introduce cultural diversity training into the curriculum in schools of public health.

By the end of the demonstration period, the awardee must have developed written curricula for its program, comprehensively described its implementation plan and local experience in educating students, training faculty and public health professionals, and reported on the effectiveness of its program in changing its stakeholder's knowledge, skills, attitudes, and practices. National and local dissemination of information and lessons learned by the recipient is required throughout the project period. This Cooperative Agreement is expected to contribute significantly to the identification of future best practices for the education and training of public health professionals.

Eligible Applicants

Eligible applicants are a health professions school (including an accredited school or program of public health, health administration, preventive medicine, or dental public health or a school providing health management programs), academic health centers, State or local governments, and any other appropriate public or private non-profit entity.

Review Criteria

The specific review criteria used to review and rank applications are included in the application guidance that will be provided to each potential applicant. Applicants should pay strict attention to addressing these criteria, as they are the basis upon which applications will be judged by the reviewers.

The following generic review criteria are applicable to this Cooperative Agreement:

(a) That the estimated cost to the Government of the project is reasonable considering the level and complexity of activity and the anticipated results.

(b) That the budget justifications are complete, appropriate, and cost-effective.

(c) That project personnel are well qualified by training and/or experience for the support sought, and the applicant organization or the organization to provide training has adequate facilities and manpower.

(d) That the proposed objectives are capable of achieving the specific program objectives defined in the program announcement and the proposed results are measurable.

(e) That insofar as practical, the proposed activities, if well executed, are capable of attaining project objectives.

(f) That the proposal includes an integrated methodology compatible with the scope of project objectives, including collaborative relationships with relevant institutions and professional associations.

(g) That the method for evaluating proposed results includes criteria for determining the extent to which the program has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the program.

(h) That, insofar as practical, the proposed activities, when accomplished, are replicable, national in scope, and include plans for broad dissemination.

Letters of Intent and Deadline Date

Applicants are encouraged to submit a letter of intent to apply for this Cooperative Agreement. The letter is requested to assist staff in planning for the review based on anticipated number of applications. The letter of intent is due July 10, 2001. Simultaneously mail or e-mail one copy of the letter to each of the following representatives from the Center for Public Health (CPH), within the Bureau of Health Professions (BHPr):

Jeffrey Dunlap, Acting Director, CPH, Bureau of Health Professions, HRSA, Room 8–103, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; or e-mail address at Jdunlap@hrsa.gov. Mr. Dunlap's telephone number is (301) 443–6853.

Capt. Barry Stern, Sr., Environmental Health Advisor, CPH, Bureau of Health Professions, HRSA, Room 8–103, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; or e-mail address at Bstern@hrsa.gov. Capt. Stern's telephone number is (301) 443–6758.

Application Requests, Dates and Address

Federal Register notices and the application form and guidance for this Cooperative Agreement are available from the HRSA web site address at http://bhpr.hrsa.gov/grants2001/. Applicants may also request a hard copy of these materials from the HRSA Grants Application Center (GAC) at 1815 North Fort Myer Drive, Suite 300, Arlington,

VA 22209; telephone number 1–877–477–2123. The GAC e-mail address is: hrsagac@hrsa.gov.

In order to be considered for competition, applications for this Cooperative Agreement must be received by mail or delivered to the GAC no later than July 26, 2001.

Completed applications must be submitted to the GAC at the above address. Applications received after the deadline date or sent to any address other than the Arlington, Virginia address above will be returned to the applicant and not reviewed.

National Health Objectives for the Year 2010

The PHS urges applicants to submit their work plans that address specific objectives of Healthy People 2010, which potential applicants may obtain through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (telephone: (202) 783–3238). Particular attention should focus on Healthy People 2010 Workforce Objectives, such as Objectives 1–8 (achieving minority representation in the health professions) and 23–8 (incorporating specific competencies into the public health workforce).

Smoke-Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace; to promote the non-use of all tobacco products; and to promote Pub. L. 103–227, the Pro-Children Act of 1994, which prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Additional Informaiton

Questions concerning programmatic aspects of this Cooperative Agreement may be directed to the same representatives of the Center for Public Health listed above in the Letters of Intent section of this notice.

Paperwork Reduction Act

The standard application form HRSA–6025–1, the HRSA Competing Training Grant Application, has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0060. If the methods for developing the proposed comprehensive outcome evaluation of all efforts delivered through this Cooperative Agreement (as described in the Background section of this notice) fall under the purview of the Paperwork Reduction Act, the awardee will assist HRSA in seeking OMB clearance for proposed data collection activities.

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is also not subject to the Public Health Systems Reporting Requirements.

Dated: June 20, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–15964 Filed 6–25–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4653–N–08]

Notice of Proposed Information Collection for Public Comment: Survey of Market Absorption

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review as required by the Paperwork Reduction Act of 1995. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 27, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Officer of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sepanik (202) 708–1060 x5887 (this is not toll-free) for copies of the proposed forms and other relevant documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: The Survey of Market Absorption (SOMA).

OMB Number: 2528–0012 (expires 07/31/2002).

Description of the need for the information and proposed use: The Survey of Market Absorption (SOMA) provides the data necessary to measure the rate at which new rental apartments and new condominium apartments are absorbed; that is, taken off the market, usually by being rented or sold, over the course of the first twelve months following completion of a building.

The data are collected at quarterly intervals until the twelve months conclude, or until the units in a building are completely absorbed. The survey also provides estimates of certain characteristics, i.e., asking rent/price, number of units, and number of bedrooms.

The survey provides a basis for analyzing the degree to which new apartment construction is meeting the present and future needs of the public. Additionally, beginning with new construction in 2002, the survey will attempt to ascertain the number and degree of services provided by Assisted Living type units.

Members of affected public: Rental Agents/Builders.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 4,000 hours, number of respondents is 12,000 taking an estimate of 20 minutes; frequency of response is four times (maximum). All information will be collected in person or via telephone.

Status of the proposed information collection: Pending OMB approval.

Authority: Title 12, U.S.C. section 1701z.

Dated: June 18, 2001.

Lawrence L. Thompson,

General Deputy Assistant, Secretary for Policy Development and Research.

[FR Doc. 01–15923 Filed 6–25–01; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4560–FA–21]

Announcement of Funding Award—FY 2000 Lead Hazard Control Research Program

AGENCY: Office of the Secretary—Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department as a result of the Lead Hazard Control Research Super Notice of Funding Availability (SuperNOFA). This announcement contains the names and addresses of the awardees and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Eugene A. Pinzer, Department of Housing and Urban Development, 451, Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 120. Hearing-or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead Hazard Control Research Program was issued pursuant to Sections 1051 and 1052 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

The Lead Hazard Research Programs provides research funds to improve methods for detecting and controlling residential lead-based paint hazards. On February 24, 2000 (65 FR 9559), HUD published a SuperNOFA announcing the availability of approximately $1.5 million in Fiscal Year 2000 funds for the Lead Hazard Control Research Program. The Department reviewed, evaluated and scored the applications received based on the criteria in the SuperNOFA. As a result, HUD has funded three grantees for the Lead Hazard Control Research Program.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the awards as follows:

Awardee	Address	Amount of grant
Kennedy Kreiger Research Institute	707 North Broadway, Baltimore, MD 21205	$491,955.00
New Jersey Department of Health and Senior Services	Division of Epidemiology, Environmental and Occupational Health, P.O. Box 360—Mercer County, Trenton, NJ 08625.	250,000.00
Wisconsin Department of Health and Family Services	Division of Public Health, Bureau of Environmental Health, 1 West Wilson Street—P.O. Box 2659, Madison, WI 53701–2659.	37,858.00

Dated: June 18, 2001.

David E. Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 01–15922 Filed 6–25–01; 8:45 am]

BILLING CODE 4210–70–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Present for Public Review and Comment the Draft Comprehensive Conservation Plan for Bayou Cocodrie National Wildlife Refuge in Concordia Parish, Louisiana

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service, Southeast Region, has made available for public review and comment the Draft Comprehensive Conservation Plan for Bayou Cocodrie National Wildlife Refuge. The Service plans to conduct an open house meeting at the refuge to solicit public comments on the draft plan. The Service is furnishing this notice in compliance with its comprehensive conservation planning policy, the National Environmental Policy Act, and implementing regulations to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain comments on the proposed plan and other alternatives considered in the planning process.

DATES: The Service will hold the open house meeting on June 28, 2001, from 2:00 p.m. until 7:00 p.m. at the refuge headquarters on Poole Road, in Ferriday, Louisiana.

ADDRESSES: Comments and requests for copies of the draft plan should be addressed to Mr. Mike Esters, Refuge Manager, Bayou Cocodrie National Wildlife Refuge, P.O. Box 1772, Ferriday, Louisiana 71334, or by calling (318) 336–7119. Comments must be received by August 13, 2001, to be considered in the development of the final plan. Information concerning the refuge may be found at the following website: *http://bayoucocodrie.fws.gov/*.

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the above address. You may also comment via the Internet to the following address: *Mike_Esters@fws.gov.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at Bayou Cocodrie National Wildlife Refuge at the above address. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION: Congress authorized the establishment of Bayou Cocodrie National Wildlife Refuge on

November 16, 1990, to protect some of the last remaining, least disturbed bottomland hardwoods in the Lower Mississippi Valley.

Dated: June 12, 2001.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 01–15971 Filed 6–25–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) is announcing that it will conduct tribal consultation meetings to obtain oral and written comments concerning potential issues in Indian Education Programs. This notice announces the dates and locations of the consultation meetings.

DATES: Written comments must be received on or before August 2, 2001. The consultation meetings will be held on July 9, 12, 17, 19, 22 and 25, 2001. Several dates and locations were scheduled to coincide with meetings of various Indian education organizations. All meetings will begin at 9 a.m. and continue until 3 p.m. (local time) or until all meeting participants have had an opportunity to make comments.

ADDRESSES: Send written comments to the Bureau of Indian Affairs, Office of Indian Education Programs, Attention: Mr. William Mehojah, Jr., MS–3512 MIB, OIE–32, 1849 C Street NW., Washington, DC 20240, or you may hand deliver them to Room 3512 at the same address. Comments may also be telefaxed to 202–208–3312. See **SUPPLEMENTARY INFORMATION** for locations of the consultation meetings.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Whitehorn or Georgia Braun, 202–208–4976.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar meetings conducted by the Office of Indian Education Programs since 1990. The purpose of the consultation, as required by 25 U.S.C. 2011, is to provide Indian tribes, school boards, parents, Indian organizations, and other interested parties an opportunity to comment on potential issues raised during previous consultation meetings or issues being considered by the BIA regarding Indian education programs.

The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

(1) School Construction

(2) Consultation

(3) Realignment of Special Education Coordinators and Education Specialists

(4) Open Item

A consultation booklet for the July meetings is being distributed to federally-recognized Indian tribes, Bureau Regional and Agency Offices, and Bureau-funded schools. The booklets will also be available from local contact persons at each meeting.

Meeting Schedule

Date	Location	Local contact	Phone numbers
July 9, 2001	Albuquerque, NM	Ed Parisian	(505) 753–1465
July 12, 2001	Aberdeen, SD	Cherie Farlee	(605) 964–8722
July 17, 2001	Gallup, NM	Larry Holman	(505) 786–6150
July 19, 2001	Phoenix, AZ	Joe Frazier	(505) 248–6544
July 22 and 25, 2001	Portland, OR	John Reimer	(505) 872–2743

Written Comments

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the address listed under **ADDRESSES** section during regular business hours (7:45 a.m. to 4:15 p.m. EST), Monday through Friday, except Federal holidays. Individual respondents may request confidentially. If you wish us to withhold your name, street address, and other contact information (such as fax or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will honor your request to the extent allowable by law. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: June 13, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–15812 Filed 6–25–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–2001–1310–DB]

Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping for the Atlantic Rim Coalbed Methane Project, Carbon County, Wyoming; and To Amend the Great Divide Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) and to conduct scoping for the Atlantic Rim Coalbed Methane Project, Carbon County, Wyoming, and to amend the Great Divide Resource Management Plan.

SUMMARY: Under section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Land Management (BLM), Rawlins Field Office, will direct the preparation of an EIS on the potential impacts of a proposed coalbed methane field development project. Up to 3,880 coalbed methane wells, with associated facilities, could be located within approximately 310,335 acres of Federal, State, and private lands during the 20 to 30 year anticipated life of the proposed project. The project area is located in southwestern Carbon County, Wyoming. The proposed action may be modified as a result of comments received during scoping or anytime during the preparation of the draft EIS. Concurrently with the preparation of the project EIS, the planning requirements for amending the Great Divide Resource Management Plan (RMP) will also be conducted because the level of oil and gas development under this project proposal is likely to exceed the

reasonably foreseeable development level analyzed in the EIS for the Great Divide RMP. Any needed changes in the reasonably foreseeable development scenario will be identified and the Great Divide RMP will be amended as necessary.

In accordance with 43 CFR 3420.1–2, this notice also serves as a call for coal and other resource information to solicit indications of interest and information on the coal resource, the coal resource development potential in the proposed project area, and on other resources which may affect or be affected by the proposed project. Affected Federal lands are administered by the BLM Rawlins Field Office. The EIS will be prepared by a third-party contractor.

DATES: Written comments on the project proposal will be accepted for 30 days following publication of this notice in the **Federal Register**. Future notification of public scoping meetings and other public involvement activities or meetings, concerning the proposed project and resource management plan amendment, will be provided through public notices, news media releases, the Wyoming BLM homepage at www.wy.blm.gov, and/or mailings. These notifications will provide at least 15 days advance notice of public meetings or gatherings and 30 days advance notice of written comment requests. At least two scoping meetings will be scheduled in the immediate future.

ADDRESSES: Comments should be sent to Bureau of Land Management, Rawlins Field Office, Brenda Vosika Neuman, Team Leader, 1300 North Third Street, P.O. Box 2407, Rawlins, Wyoming 82301, phone (307) 328–4200, or e-mailed to: rawlins_wymail@blm.gov.

The Scoping Notice will be posted on the Wyoming BLM homepage at www.wy.blm.gov. Your response is important and will be considered in the environmental analysis process. If you do respond, we shall keep you informed of decisions resulting from the analysis. Please note that public comments submitted throughout the analysis and resource management plan amendment process, including names, e-mail addresses, and street addresses of the respondents, will be available for public review and disclosure at the above address during regular business hours (7:45 a.m. to 4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentially. If you wish to withhold your name, e-mail address, or street address from public review or from disclosure under the Freedom of Information Act, you must state this plainly at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals who are representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Brenda Vosika Neuman, Project Manager, 1300 North Third Street, P.O. Box 2407, Rawlins, Wyoming 82301, phone 307–328–4389, e-mail: Brenda_Neuman@blm.gov.

SUPPLEMENTARY INFORMATION: On May 24, 2001, The Petroleum Development Corporation (PEDCO) notified the Bureau of Land Management, Rawlins Field Office, that PEDCO and other operators intend to explore for and potentially develop coalbed methane wells in south-central Wyoming. Drilling is expected to last approximately 6 to 10 years, with a 20 to 30 year expected life-of-project. The proposed project area, referred to as the Atlantic Rim Coalbed Methane Project Area, is generally located in Townships 13–20 North, Ranges 89–92 West, Sixth Principal meridian, Carbon County, Wyoming.

The northern most boundary of the project area begins approximately 6 miles southwest of Rawlins, Wyoming, and the southern most boundary lies approximately 1 mile north of Dixon, Wyoming. The project area is approximately 310,335 acres in size. The northern portion of the project area is in the checkerboard land pattern area which consists of a mixture of Federal, State, and private lands and minerals. In the southern portion of the project area, Federal, State and private surface overlies a mineral estate in which the vast majority is owned by the Federal Government. The Federal land surface and Federally owned minerals in the project area are managed by the Rawlins BLM Field Office.

PEDCO and other operators propose to drill a maximum of 3,880 coalbed methane wells and construct associated facilities, including roads, well pads, pipelines, and compressor stations. Information on the potential to economically develop coalbed methane is limited in most of the project area. Drilling of exploratory coalbed methane wells on existing Federal leases will be permitted during the preparation of the EIS. A site-specific environmental assessment (EA) will be prepared for each individual group of wells referred to as pods. Nine exploratory pods have been proposed over the entire project area to define the coal structures in the area, to determine if the coal can be de-watered to allow for economic development of gas, and to support conclusions made in the EIS.

This EIS will address cumulative impacts and will include consideration of affects of other oil and gas projects addressed in recently completed EISs for the Mulligan Draw Gas Field Project, the Creston/Blue Gap Natural Gas Project, the Continental Divide/Wamsutter II Natural Gas Project, the South Baggs Area Natural Gas Development Project, and the EIS currently being prepared for the Desolation Flats Natural Gas Development Project. Potential issues to be addressed in the EIS include, but are not limited to, impacts to wildlife populations and their habitats, access road development and transportation management, impacts to surface and ground water resources including sedimentation/salinity to the Colorado River System, impacts from drilling and production activities, reclamation, noxious weed control, conflicts with livestock grazing operations, protection of cultural and paleontological resources, threatened and endangered species, conflicts between mineral development and recreational opportunities, and cumulative impacts.

Dated: June 8, 2001.

Alan R. Pierson,

State Director.

[FR Doc. 01–15939 Filed 6–25–01; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–448]

In the Matter of Certain Oscillating Sprinklers, Sprinkler Components, and Nozzles; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation as to One Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) of the presiding administrative law judge (ALJ) in the above-captioned investigation terminating the investigation as to respondent Lego Irrigation Equipment (''Lego'') on the basis of withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Laurent de Winter, Esq., Office of the General Counsel, U.S. International

Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–708–5452. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–Line) at http://dockets.usitc.gov/eol.public. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930, in the importation and sale of certain oscillating sprinklers, sprinkler components, and nozzles, on February 9, 2001, 66 FR 9721. On May 4, 2001, complainant L.R. Nelson Corp. moved, pursuant to 19 U.S.C. 1337(c) and Commission rule 210.21(a), to terminate the investigation with respect to Lego. Complainant's motion asserted that Lego U.S.A. and complainant have reached a settlement in this investigation, and that complainant is withdrawing the allegations it made against Lego. No party responded to complainant's motion.

On May 31, 2001, the presiding ALJ (Judge Luckern) issued an ID (Order No. 8) terminating the investigation as to Lego pursuant to Commission rule 210.21(b). No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission rule 210.42 (19 CFR 210.42).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

Issued: June 20, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–15921 Filed 6–25–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1323]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, Justice.

ACTION: Notice of meeting.

SUMMARY: Announcement of the Coordinating Council on Juvenile Justice and Delinquency Prevention meeting.

DATES: A meeting of this advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will take place in the District of Columbia on Tuesday, July 24, 2001, beginning at 10 a.m. and ending at noon, ET.

ADDRESSES: The meeting will take place at the U.S. Department of Justice, Office of Justice Programs, Main Conference Room, 3rd Floor, 810 Seventh Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Bob Altman, Program Manager, Juvenile Justice Resource Center, at 301–519–5721. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Coordinating Council, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 *et seq.*). The topic of this meeting is Today's Youth Gangs. This meeting will be open to the public. Members of the public who wish to attend the meeting should notify the Juvenile Justice Resource Center at the number listed above by 5 p.m., et, on Tuesday, July 17, 2001. For security purposes, picture identification will be required.

Dated: June 20, 2001.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–15957 Filed 6–25–01; 8:45 am]

BILLING CODE 4410–18–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors, Committee on Provision for the Delivery of Legal Services

TIME AND DATE: The Committee on Provision for the Delivery of Legal Services of the Legal Services Corporation Board of Directors will meet on June 29, 2001. The meeting will begin at 10 a.m. and continue until the Committee concludes its agenda.

LOCATION: Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of January 26, 2001.
3. Presentation by Equal Justice Stakeholders in New Hampshire on Delivering Services to Low-Income Clients.
4. Presentation by Don Saunders, of NLADA, on State Planning.
5. Presentation by Michigan State Bar concerning State Planning in Michigan.
6. Presentation by other Michigan Stakeholders concerning State Planning in Michigan.
7. Update by Randi Youells on State Planning and Other Business.
8. Consider and act on other business.
9. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Secretary of the Corporation, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: June 21, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 01–16063 Filed 6–22–01; 9:29 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors, Operations and Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on June 29, 2001. The meeting

will begin at 2:00 p.m. and continue until the Committee concludes its agenda.

LOCATION: Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of November 10, 2000.
3. Consider and act on the Draft Final Property Acquisition and Management Manual.
4. Status report on the work of the Regulations Review Task Force.
5. Consider and act upon potential rulemaking on 45 CFR Part 1639 (Welfare Reform) to conform the regulations to the recent Supreme Court ruling in *LSC* v. *Velazquez.*
6. Staff report on the status of actions relating to 45 CFR Part 1626 (Restrictions on Legal Assistance to Aliens) and 45 CFR Part 1611 (Eligibility).
7. Consider and act on other business.
8. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: June 21, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel and Corporate Secretary.

[FR Doc. 01–16064 Filed 6–22–01; 9:30 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors, Finance Committee

TIME AND DATE: The Finance Committee of the Legal Services Corporation Board of Directors will meet on June 30, 2001. The meeting will begin at 8:30 a.m. and continue until the Committee concludes its agenda.

LOCATION: Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of January 26, 2001.
3. Review of the LSC's Consolidated Operating Budget, Expenses and Other Funds Available through April 30, 2001.
4. Review the projected operating expenses for fiscal year 2001 based on operating experience through March 31, 2001 and the required internal budgetary adjustments due to shifting priorities.
5. Consider and act on the President's recommendation for Consolidated Operating Budget reallocations.
6. Report on internal budgetary adjustments by the President and Inspector General.
7. Report on LSC's budgetary needs for fiscal year 2003.
8. Consider and act on other business.
9. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: June 21, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 01–16065 Filed 6–22–01; 9:30 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on June 30, 2001. The meeting will begin at 9 a.m. and continue until conclusion of the Board's agenda.

LOCATION: Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(10)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Board's meeting of January 27, 2001.
3. Approval of the minutes of the Executive Session of the Board's meeting of January 27, 2001.
4. Approval of minutes of the Board's telephonic meeting of May 29, 2001.
5. Scheduled Public Speakers.
6. Chairman's Report.
7. Members' Report.
8. Inspector General's Report.
9. President's Report.
10. Consider and act on the report of the Board's Committee on Provision for the Delivery of Legal Services.
11. Consider and act on the report of the Board's Operations and Regulations Committee.
12. Consider and act on the report of the Board's Finance Committee.
13. Consider and act on contractual arrangements with John Erlenborn.
14. Consider and act on the election of a new Vice-Chair.
15. Consider and act on short-term contract extensions for Randi Youells, Mauricio Vivero, and Victor Fortuno.
16. Report by Danilo Cardona on the operations of the Office of Compliance and Enforcement.

Closed Session

17. Briefing [1] by the Inspector General on the activities of the Office of Inspector General.
18. Consider and act on the Office of Legal Affairs' report on potential and pending litigation involving LSC.

Open Session

19. Consider and act on other business.
20. Public Comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR 1622.2 & 1622.3

accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: June 21, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 01–16066 Filed 6–22–01; 9:31 am]

BILLING CODE 7050–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Wednesday, June 27, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor on behalf of McGill v. U.S. Steel Mining, Docket No. SE 2000–39–DM (Issues include whether the judge erred in finding that the operator established an affirmative defense to the miner's prima facie case of discrimination).

TIME AND DATE: 2 p.m., Wednesday, June 27, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Proposed Settlement Judge Rule (Notice of proposed rulemaking was published at 64 Fed. Reg. 61236 (Nov. 10, 1999)).

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 01–16099 Filed 6–22–01; 11:50 am]

BILLING CODE 6735–01–M

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

The United States Institute for Environmental Conflict Resolution

U.S. Institute for Environmental Conflict Resolution; Application for the National Roster of Dispute Resolution and Consensus Building Professionals: Sub-Roster of Transportation Mediators & Facilitators (Transportation Roster)

AGENCY: Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, U.S. Institute for Environmental Conflict Resolution.

ACTION: Notice of availability of application.

SUMMARY: Provides interested environmental conflict resolution professionals with information regarding the application process for the National Roster of Environmental Dispute Resolution and Consensus Building Professionals (Roster of ECR Practitioners) and the new Sub-Roster of Transportation Mediators & Facilitators (Transportation Roster).

DATES: The application period for the Roster of ECR Practitioners is open and continuous. Current and new members of the Roster of ECR Practitioners must submit an application for the Sub-Roster of Transportation Mediators & Facilitators by August 15, 2001 in order to be included in the initial Transportation Roster. Future application opportunities for the Transportation Roster have not been determined.

ADDRESSES: Application for the Roster of ECR Practitioners and the Transportation Roster: *www.ecr.gov* (follow roster link). Hard copy application for those without web access: Joan C. Calcagno, Roster Manager, U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701.

FOR FURTHER INFORMATION CONTACT: Joan C. Calcagno, Roster Manager, U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701, 520–670–5299, E-mail: *roster@ecr.gov*

SUPPLEMENTARY INFORMATION: *The U.S. Institute for Environmental Conflict Resolution:* The U.S. Institute for Environmental Conflict Resolution is a federal program established by the U.S. Congress to assist parties in resolving environmental, natural resource, and public lands conflicts. The Institute is part of the Morris K. Udall Foundation, an independent federal agency of the executive branch overseen by a board of trustees appointed by the President. The Institute serves as an impartial, non-partisan institution providing professional expertise, services, and resources to all parties involved in such disputes, regardless of who initiates or pays for assistance. The Institute helps parties determine whether collaborative problem solving is appropriate for specific environmental conflicts, how and when to bring all the parties to the table, and whether a third-party facilitator or mediator might be helpful in assisting the parties in their efforts to reach consensus or to resolve the conflict. In addition, the Institute maintains a roster of qualified facilitators and mediators with substantial experience in environmental conflict resolution, the National Roster of Environmental Dispute Resolution and Consensus Building Professionals (Roster of ECR Practitioners), and can help parties in selecting an appropriate neutral.

The Roster of ECR Practitioners: The U.S. Institute for Environmental Conflict Resolution continues to accept applications for the National Roster of Environmental Dispute Resolution and Consensus Building Professionals (Roster of ECR Practitioners). The roster includes approximately 155 practitioners with substantial experience as mediators, facilitators, or other collaborative process neutral roles, in environmental cases and processes. The roster serves as a resource for the Institute in making referrals and when sub-contracting with practitioners. It also serves as a resource for federal agencies and other stakeholders when seeking to contract with a practitioner. A roster search and referral is currently available by contacting the Institute and will eventually be available to all on the web.

Information About and the Application for the Roster of ECR Practitioners: The roster application can be completed and submitted online from the Institute's web site: www.ecr.gov. Complete information about the Institute, the development and purpose of the roster, the entry criteria, and a score sheet are available for your use and review on the Institute's web site. Click the roster link. Please review the entry criteria, the application's glossary definitions, and the instructions carefully to ensure a prompt determination.

The Sub-Roster of Transportation Mediators & Facilitators: The Institute is

also assembling a roster of qualified dispute resolution and consensus building professionals with particular experience in transportation cases: the Sub-Roster of Transportation Mediators & Facilitators (''Transportation Roster''). The Institute will draw from members of the Roster of ECR Practitioners to assemble the Transportation Roster. The Transportation Roster is part of an ADR system designed through an interagency agreement with the Federal Highway Administration. The system includes the development of a guidance document, a training course, and the Transportation Roster. Information about the Transportation Roster and the appropriate use of neutrals will be provided to every relevant federal and state transportation, environmental, and historical review agency as part of a new guidance document (Environmental Streamlining and Conflict Management.) Transportation roster members will be available to all of these agencies to help design collaborative processes and to resolve interagency disputes that arise during environmental reviews of transportation projects. Transportation Roster members will also be a primary source of trainers for planned interagency training on negotiations and conflict management.

Eligibility for the Transportation Roster: Environmental conflict resolution practitioners (mediators, facilitators, consensus builders, etc.) must first be members of the National Roster of Environmental Dispute Resolution and Consensus Building Professionals (Roster of ECR Practitioners) and then submit the Transportation Roster application demonstrating that they meet the Transportation Roster entry criteria. Entry criteria include experience as a neutral in transportation cases and/or as employees of, or consultants to, relevant agencies.

More Information About, and the Application for, the Transportation Roster: More information is available on the Institute's website: *www.ecr.gov.* Click the roster link. Click the Transportation Roster link on the right hand navigation bar. The links on that page will connect to a packet of background information, entry criteria and other requirements, applicable definitions, instructions and the short application in a MSWord or WordPerfect file. Practitioners are reminded that they must first apply to, and be a member of, the Roster of ECR Practitioners.

(Authority: 20 U.S.C. Sec. 5601–5609)

Dated the 19th day of June 2001.

Christopher L. Helms,

Executive Director, Morris K. Udall Foundation.

[FR Doc. 01–15970 Filed 6–25–01; 8:45 am]

BILLING CODE 6820–FN–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before August 10, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301)713–7110. E-mail: records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too

includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, U.S. Army Criminal Investigation Command (N1-AU–01–4, 2 items, 2 temporary items). Master file and outputs of the Army Criminal Investigation Reporting System, an electronic information system used for data concerning criminal investigations. Records include name, Social Security number, date of birth, rank, installation, and other data concerning suspects.

2. Department of Commerce, National Oceanographic and Atmospheric Administration (N1–370–01–2, 1 item, 1 temporary item). Photographs, forecast maps, and other observational data generated by satellites. Records were used to prepare short-term weather forecasts during the period 1969 to 1988.

3. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–6, 9 items, 9 temporary items). Fax transmissions stored as electronic images in a central repository. Records include images of incoming and outgoing faxes with associated transmission data. Also included are electronic copies of records created using electronic mail and word processing.

4. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–7, 4 items, 4 temporary items). Complaints filed by individual inventors against invention promoters. Records include paper complaint forms and logs and electronic copies of complaints posted on the agency web site.

5. Department of Housing and Urban Development, Office of Federal Housing Enterprise Oversight (N1–543–01–1, 2 items, 2 temporary items). Chronological files of the Associate Director and Deputy Associate Director of the Office of Finance and Administration consisting of copies of outgoing correspondence. Also included are electronic copies of records created using electronic mail and word processing.

6. Department of Labor, Office of Administrative Law Judges (N1–174–00–4, 15 items, 12 temporary items). General and congressional correspondence, case files that do not meet selection criteria for permanent retention or for which the office is not the official custodian, and judges' working files. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of files relating to significant cases, final decisions, and manuals pertaining to policies and procedures.

7. Department of State, Legal Adviser for Arms Control and Verification (N1–59–01–9, 4 items, 2 temporary items). Electronic copies of Subject Files and Treaty Negotiation Files created using electronic mail and word processing. The recordkeeping copies of these files are proposed for permanent retention.

8. Department of State, Bureau of Consular Affairs (N1-59–01–13, 3 items, 3 temporary items). Records relating to public service announcements, including audio and videotapes of broadcasts, scripts, distribution lists, and background papers. Also included are electronic copies of records created using electronic mail and word processing.

9. Agency for International Development, Agency-wide (N1–286–00–3, 3 items, 2 temporary items). Records of lower-level offices and offices responsible for administrative support matters as well as records of geographic and functional bureaus and offices that are duplicative, pertain to housekeeping matters, or were previously approved for disposal in agency schedules. Records, which predate 1985, include temporary files that are intermixed with permanent records and will be disposed of by NARA during archival processing. Substantive subject and country files dealing with mission-related matters are proposed for permanent retention.

10. Environmental Protection Agency, Office of Prevention (N1–412–01–6, 4 items, 2 temporary items). Paper records that have been microfilmed relating to the review and approval process for genetically modified microorganisms prior to their importation or manufacture in the U.S. Also included are electronic copies of documents created using electronic mail and word processing. Microfilm copies and paper records that have not been filmed are proposed for permanent retention.

11. Federal Emergency Management Agency, Flood Insurance Administration (N1–311–01–2, 2 items, 2 temporary items). Regional office background material for flood hazard studies including correspondence, drafts, maps, and checklists. Also included are electronic copies of documents created using electronic mail and word processing.

12. National Credit Union Administration, Office of the Board and Chairman (N1–413–01–1, 13 items, 9 temporary items). Audiotapes of meetings, members' subject files, and delegations of authority. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of minutes of meetings, records of votes, chronological files, and speeches.

13. Tennessee Valley Authority, Human Resources (N1-142–01–3, 8 items, 8 temporary items). Electronic master files, with related inputs, outputs, and system documentation, pertaining to employee and contractor medical matters. The system includes data concerning such matters as medical services requested, job duty status, approvals for special duties, respirator approvals, and the status of monitoring exams. Also included are electronic copies of documents created using electronic mail and word processing. Master files and recordkeeping copies of respirator approvals are proposed for a retention period of forty years.

Dated: June 20, 2001.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 01–15961 Filed 6–25–01; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR part 11—Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material.

3. *The form number if applicable:* None.

4. *How often the collection is required:* New applications,

certifications, and amendments may be submitted at any time. Applications for renewal are submitted every 5 years.

5. *Who is required or asked to report:* Employees (including applicants for employment), contractors and consultants of NRC licensees and contractors whose activities involve access to or control over special nuclear material at either fixed sites or in transportation activities.

6. *An estimate of the number of responses:* 5.

7. *The number of annual respondents:* 5 NRC licensees.

8. *The number of hours needed annually to complete the requirement or request:* Approximately 0.25 hours annually per response, for an industry total of 1.25 hours annually.

9. *An indication of whether section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* NRC regulations in 10 CFR part 11 establish requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. Personal history information which is submitted on applicants for relevant jobs is provided to OPM, which conducts investigations. NRC reviews the results of these investigations and makes determinations of the eligibility of the applicants for access authorization.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/NRC/PUBLIC/OMB/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 26, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Bryon Allen, Office of Information and Regulatory Affairs (3150–0009), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 20th day of June, 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–15967 Filed 6–25–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Co.; San Onofre Nuclear Generating Station, Unit Nos. 2 and 3; Correction to Environmental Assessment and Finding of No Significant Impact

In notice document 01–15370 beginning on page 32964, in the issue of Tuesday, June 19, 2001, make the following corrections:

In the second full paragraph, in the third column, on page 32964, in line seven, the number ''3448 MWt,'' should be corrected to read ''3438 MWt.''

In the fourth full paragraph, in the third column, on page 32964, in line three, the number ''3448 MWt,'' should be corrected to read ''3438 MWt.''

Dated at Rockville, Maryland, this 19th day of June 2001.

For the Nuclear Regulatory Commission.

Joseph E. Donoghue,

Senior Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–15968 Filed 6–25–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of June 25, July 2, 9, 16, 23, 30, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 25, 2001

Wednesday, June 27, 2001
9:25 a.m.—Affirmation Session (Public Meeting) (If needed)

Week of July 2, 2001—Tentative

There are no meetings scheduled for the Week of July 2, 2001.

Week of July 9, 2001—Tentative

Monday, July 9, 2001
1:25 p.m.—Affirmation Session (Public Meeting) (If needed)

Week of July 16, 2001—Tentative

Thursday, July 19, 2001
9:25 a.m.—Affirmation Session (Public Meeting) (If needed)
9:30 a.m.—Briefing on Results of Agency Action Review Meeting—Reactors (Public Meeting) (Contact: Ron Frahm, 301–415–2986)
1:30 p.m.—Briefing on Readiness for New Plant Applications and Construction (Public Meeting) (Contact: Nanette Gilles, 301–415–1180)

Friday, July 20, 2001
9:30 a.m.—Briefing on Results of Reactor Oversight Process Initial Implementation (Public Meeting) (Contact: Tim Frye, 301–415–1287)
1:00 p.m.—Briefing on Risk-Informing Special Treatment Requirements (Public Meeting) (Contact: John Nakoski, 301–415–1287)

Week of July 23, 2001—Tentative

Wednesday, July 25, 2001
9:25 a.m.—Affirmation Session (Public Meeting) (If needed)

Week of July 30, 2001—Tentative

Tuesday, July 31, 2001
1:25 p.m.—Affirmation Session (Public Meeting) (If needed)

Note: The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—301–415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

Additional Information

By a vote of 5–0 on June 14, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Order Referring Petitions to Intervene in MOX Proceeding to Licensing Board'' be held on June 14, and on less than one week's notice to the public.

By a vote of 5–0 on June 20, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Power Authority of the State of New York Entery Companies; Applications to Transfer Licenses for Indian Point 3 and Fitzpatrick Nuclear Plants; Merits Decision'' to be held on June 21, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*..

Dated: June 21, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–16088 Filed 6–22–01; 11:08 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

June 1, 2001.

Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of June 1, 2001, of two deferrals contained in one special message for FY 2001. The message was transmitted to Congress on January 18, 2001.

Deferrals (Attachments A and B)

As of June 1, 2001, $1.4 billion in budget authority was being deferred from obligation. Attachment B shows the status of each deferral reported during FY 2001.

Information From Special Message

The special message containing information on the deferrals that are covered by this cumulative report is printed in the edition of the **Federal Register** cited below:

66 FR 8985, Monday, February 5, 2001

Mitchell E. Daniels, Jr.,

Director.

ATTACHMENT A—STATUS OF FY 2001 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	1,946.7
Routine Executive releases through June 1, 2001	−551.8
Overturned by the Congress	.....
Currently before the Congress	1,394.9

BILLING CODE 3110–01–P

ATTACHMENT B
Status of FY 2001 Deferrals - As of June 1, 2001
(In thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Special Message	Releases (-): Cumulative OMB/ Agency	Releases (-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 6/1/01
DEPARTMENT OF STATE									
Other									
United States Emergency Refugee and Migration Assistance Fund	D01-1	145,310		1/18/01	40,033				105,277
INTERNATIONAL ASSISTANCE PROGRAMS									
International Security Assistance									
Economic Support Fund	D01-2	1,801,382		1/18/01	511,746				1,289,637
TOTAL, DEFERRALS		**1,946,692**			**551,779**				**1,394,913**

Note: Detail may not add to totals due to rounding.

[FR Doc. 01–15916 Filed 6–25–01; 8:45 am]
BILLING CODE 3110–01–C

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Texas Biotechnology Corporation, Common Stock, $.005 Par Value, Per Share) File No. 1–12574

June 20, 2001.

Texas Biotechnology Corporation, a Delaware corporation (''Company''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.005 par value (''Security''), from listing and registration on the American Stock Exchange (''Amex'').

The Company represents that trading in the Security began on the Nasdaq National Market, and ceased concurrently on the Amex, at the opening of business on June 19, 2001. In making the decision to withdraw the Security from listing on the Exchange, the Company considered the liquidity to be provided by its inclusion on the Nasdaq National Market and the cost of maintaining the Amex listing.

The Company stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Company's application relates solely to the Security's withdrawal from l listing on the Amex and shall affect neither its approval for listing on the Nasdaq National Market nor its obligation to be registered under section 12(g) of the Act.[3]

Any interested person may, on or before July 10, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–15979 Filed 6–25–01; 8:45 am]
BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(g).

[4] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44451; File No. SR–NASD–99–46]

Self-Regulatory Organizations; Order Approving Proposed Rule Change, and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 to the Proposed Rule Change, Filed by the National Association of Securities Dealers, Inc. Requiring Registration of Chief Compliance Officers

June 19, 2001.

I. Introduction

On November 22, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), submitted to the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change requiring registration of chief compliance officers. NASD Regulation filed Amendment Nos. 1[3] and 2[4] to the proposed rule change on December 11, 2000 and December 6, 2000, respectively.[5] The proposed rule change was published for comment in the **Federal Register** on January 4, 2001.[6] The Commission received two comment letters.[7] NASD Regulation filed Amendment No. 3 to the proposed rule change on June 15, 2001.[8] This order approves the proposed rule change, as amended, and grants accelerated approval to Amendment No. 3 The Commission is also soliciting comment on Amendment No. 3 to the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would require the chief compliance officer designated on Schedule A of a member's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter dated October 28, 1999, from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Divisions of Market Regulation (''Division''), Commission (''Amendment No. 1''). Amendment No. 1 clarifies that if a person becomes a chief compliance officer for the first time after the effective date of the proposed rule change for a dual New York Stock Exchange and NASD member, that person may elect to take the New York Stock Exchange Series 14 exam, and would not be required to take the NASD Series 24 exam.

[4] *See* Letter dated December 1, 2000, from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Jack Drogin, Assistant Director, Division, Commission (''Amendment No. 2''). Amendment No. 2 limits the grandfathering provision of the proposed rule change to individuals who have been designated as chief compliance officers on Schedule A of Form BD for at least two years immediately prior to the effective date of the proposed rule change and who have not been subject within the previous ten years to: (1) Any statutory disqualification as defined in section 3(a)(39) of the Act; (2) a suspension; or (3) the imposition of a fine of $5,000 or more for a violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding.

[5] Amendment No. 1 is dated October 28, 1999, but was not received by the Commission until December 11, 2000.

[6] Securities Exchange Act Release No. 43765 (December 21, 2000), 66 FR 830.

[7] *See* Letter dated January 29, 2001, from Richard B. Levin, Assistant General Counsel and Regulatory Affairs Officer, Knight Securities, to Jonathan G. Katz, Secretary, Commission; and Letter dated January 30, 2001, from Michael T. Dorsey, Senior Vice President, General Counsel and Secretary, Knight Trading Group, to Jonathan G. Katz, Secretary, Commission. Both comment letters were from different entities within the Knight Trading Group Inc. group of companies but were substantively identical. Therefore, for purposes of this order, the Commission will refer to these letters as the ''Knight'' letters.

[8] *See* Letter dated June 14, 2001, from Patrice M. Gliniecki, Vice President and Deputy General Counsel, NASD Regulation, to Jonathan G. Katz, Secretary, Commission (''Amendment No. 3''). Amendment No. 3 completely replaced an earlier version of Amendment No. 3 that was filed with the Commission on May 10, 2001. Amendment No. 3 addresses three issued: First, NASD Regulation responds to Knight's comments (discussed *infra*.). Second, Amendment No. 3 revises the proposed rule change to clarify that a chief compliance officer for a member whose business is limited to the solicitation, purchase and/or sale of government securities may register as a government securities principal, instead of a general securities principal, and clarifies that because there is no qualifying exam for government securities principals, these individuals only must register as such. Amendment No. 3 therefore also makes corresponding changes to the rule language originally proposed to delete references to the Series 73 exam, which does not exist. Third, Amendment No. 3 clarifies that chief compliance officers for member firms limited to options activities cannot take the Series 4 exam (Registered Options Principal) in order to satisfy the registration requirement of this proposed rule change. Finally, Amendment No. 3 clarifies that chief compliance officers that have been employed by more than one firm during the grandfathering period will only be eligible for the grandfathering provision if the chief compliance officer has been working for firms conducting the same type of business. *See* discussion of the grandfathering provision, *infra*.

Form BD to be registered as a principal. NASD Regulation believes that the chief compliance officer of a member should be registered as a principal and be subject to continuing education because chief compliance officers generally advise registered representatives and other principals on compliance issues and devise compliance systems and procedures for the firm as a whole. As such, a chief compliance officer should be required to demonstrate his or her knowledge through a qualifications examination and be subject to continuing education requirements.[9]

Under the proposed rule change, the chief compliance officer must be registered as a Series 24 General Securities Principal, unless the member's activities are limited to particular areas of the investment banking or securities business. In that case, the individual may apply for a limited principal registration. Acceptable limited principal categories for a chief compliance officer are the Limited Principal Investment Company and Variable Contracts Products (Series 26), Limited Principal Direct Participation Programs (Series 39), and the Government Securities Principal, if the activities of the chief compliance officer's firm are limited to these areas.[10] To avoid imposing duplicative examination requirements on dual NASD/New York Stock Exchange (''NYSE'') members, NASD Regulation has determined that for purposes of chief compliance officer registration, it will accept the NYSE's Series 14 Compliance Official examination in lieu of any of the NASD principal examinations noted above, both for persons who have taken the NYSE Series 14 Compliance Official examination and are ''grandfathered'' as discussed below, and for persons who become chief compliance officers for dual NASD and NYSE members after the effective date of this proposed rule change.[11]

NASD Regulation proposes to make the rule change effective on January 1, 2002. A chief compliance officer who is subject to the examination requirement would be required to pass the appropriate exam within 90 calendar days of the effective date of proposed rule change. NASD Regulation also proposes to ''grandfather'' certain chief compliance officers who have been designated as a chief compliance officer on Schedule A of Form BD for two continuous years prior to the effective date of this proposed rule change, who have not been subject within the last ten years to the disciplinary procedures described in proposed Rule 1022(a), and, if applicable, have been working for firms conducting the same type of securities business (as discussed below). That is, ''grandfathered'' chief compliance officers would not have to take a qualification exam. All chief compliance officers, including those grandfathered, however, would be subject to continuing education requirements. Individuals who have served as chief compliance officers for both general securities firms and limited purpose firms during the two year grandfathering period should contact NASD Regulation's Qualifications Department to determine whether they qualify for the grandfathering provision or, whether they are eligible for a waiver of the applicable examination requirement pursuant to NASD Rule 1070(e).[12]

III. Comments

The Commission received two comments on the proposal.[13] Knight opposed the proposed rule change because it believed that it could unnecessarily and impermissibly interfere with the attorney-client relationship and the practice of law. Knight stated that the proposal could compel a lawyer to violate his duty of confidentiality and is unnecessary because the parties subject to the new rules are already subject to NASD and other regulatory oversight. Specifically, Knight stated that requiring attorneys who are chief compliance officers to register as principals would permit NASD Regulation to exert impermissible influence over member firms through the threat of enforcement and disciplinary actions against their attorneys for failing to either respond to NASD requests for information or failing to supervise associated persons.

In response, NASD Regulation stated that although NASD Regulation's Code of Procedure does not include a specific provision addressing the attorney-client privilege or the work-product doctrine, both the attorney-client privilege and the work-product doctrine would be recognized in practice, if validly asserted. NASD Regulation also noted that the NASD has an important obligation to detect and address violations of its rules and the federal securities laws, and member firms are obligated to cooperate. In addition, NASD Regulation stated that these privileges do not limit a member's obligation to comply with duties imposed by a self-regulatory organization. Finally, NASD Regulation stated that it is incumbent upon member firms that employ attorneys that serve as legal counsel and the chief compliance officer to appropriately separate these functions.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[14] In particular, the Commission finds that the proposed rule change is consistent with the requirements of section 15A(b)(6)[15] and 15A(g)(3)[16] of the Act. Section 15A(b)(6) of the Act requires the Association's rules to be designed to promote just and equitable principles of trade, and to protect investors and the public interest. Section 15A(g)(3) of the Act requires the NASD to prescribe standards of training, experience, and competence for persons associated with NASD members.

The Commission believes that the proposed rule change will promote just and equitable principles of trade and will protect investors and the public interest because the proposal institutes a formal mechanism for ensuring that chief compliance officers have attained the requisite knowledge of applicable securities laws and regulations. The Commission notes that a member's chief compliance officer plays a critical role in the operation of NASD member firms in that chief compliance officers typically advise registered representatives and other principles on compliance issues and devise compliance systems and procedures for the firm as a whole. Thus, the chief compliance officer can provide the foundation that ensures a member firm's compliance with federal and state securities laws and regulations.

[9] By requiring chief compliance officers to be registered, NASD Regulation noted that it is not creating a presumption that chief compliance officers are supervising the member's securities or investment banking business or otherwise are control persons. NASD Regulation stated that some chief compliance officers are completely segregated from a member's supervisory structure. As in the past, NASD Regulation will determine whether a person is acting as a supervisor or control person by looking at the responsibilities and functions he performs for the member, not simply his title.

[10] Chief compliance officers for firms engaged in a government securities business need not take a qualifying exam, as one does not exist; such chief compliance officers need only register with NASD Regulation. *See* Amendment No. 3, *supra* note 5.

[11] *See* Amendment No. 1, *supra* note 3.

[12] *See* Amendment No. 3, *supra* note 8.

[13] *See supra* note 7.

[14] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78o–3(b)(6).

[16] 15 U.S.C. 78o–3(g)(3).

The Commission also finds that requiring the registration, examination and continuing education of chief compliance officers is within NASD Regulation's authority to prescribe standards of training, experience, and competence for persons associated with NASD members. Thus, the Commission finds that it is consistent with the Act to require that the chief compliance officer register as a Series 24 General Securities Principle.[17] The Commission also finds that it is appropriate to permit chief compliance officers whose activities are limited to particular areas of the investment banking or securities business to register as limited principals and take the appropriate exam corresponding to their subject area, if a corresponding exam exists and NASD Regulation finds that the exam adequately demonstrates a chief compliance officer's knowledge of the subject area.[18] Therefore, the Commission finds that it is appropriate to permit limited principal registration for chief compliance officers for members whose business is limited to Investment Company and Variable Contracts and Direct Participation Programs; to delete references to the Series 73, Government Securities Principal exam, in the test of the original proposed rule language, as it does not exist; and to require that chief compliance officers for member firms engaged in options-related business take the Series 24 exam, rather than the Series 4, Registered Options Principal exam. The Commission also finds that requiring chief compliance officers to participate in continuing education helps to ensure that chief compliance officers remain sufficiently knowledgeable to advise registered representatives and other principals on compliance issues, consistent with the requirements of the Act.

The Commission finds that the proposed grandfathering provision is a reasonable approach to implementing the new registration requirements, and notes that all grandfathered chief compliance officers will be subject to continuing education requirements. In addition, by requiring the firms with whom a grandfathered chief compliance officer has worked during the grandfathering period to conduct the same type of securities business, NASD Regulation ensures that those chief compliance officers have had consistent substantive experience during the grandfathering period.

The Commission further notes that the grandfathering provision is effective on January 1, 2002, the proposed effective date of the rule change. Whether NASD Regulation actually implements the registration requirements for chief compliance officers on January 1, 2002 or delays the implementation for other reasons, the Commission has determined that the grandfathering provision for chief compliance officers for purposes of this rule will continue to be January 1, 2002. Thus, only those individuals who have been a chief compliance officer continuously from January 1, 2000–January 1, 2002 and who otherwise meet the other criteria set forth in this proposed rule change will be eligible for the grandfathering provision—regardless of when NASD Regulation actually implements the proposed rule change.

The Commission also finds that NASD Regulation's response to the commenter sufficiently address concerns relating to the attorney client privilege. The NASD's statutory obligation to ensure compliance with its rules and the federal securities laws is mandatory, and the Commission agrees that member firms are obligated to cooperate with the NASD in its investigations and actions to ensure compliance with the Act and the rules and regulations thereunder. The Commission also notes that the NASD has stated that it will recognize a validly asserted privilege. Finally, the Commission believes that member firms that employ attorneys to serve as both the chief compliance officers and legal counsel should be able to provide for the appropriate separation of these functions.

V. Accelerated Approval for Amendment No. 3

The Commission finds good cause for accelerating approval of Amendment No. 3 to the proposed rule change prior to the thirtieth day after publication in the **Federal Register**. The Commission notes that the Amendment provides useful clarifications to the proposed rule change. Accordingly, the Commission finds that good cause exists to accelerate approval of Amendment No. 3 to the proposed rule change.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3, including whether the amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD Regulation. All submissions should refer to the File No. SR–NASD–99–46, Amendment No. 3, and should be submitted by July 17, 2001.

VII. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[19] that the proposed rule change (SR–NASD–99–46), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–15980 Filed 6–25–01; 8:45 am]

BILLING CODE 8010–01–M

[17] The Commission notes that permitting chief compliance officers to choose between the NYSE's Series 14 examination and the NASD's Series 24 examination also should avoid imposing duplicative examination requirements on dual NASD/NYSE members. *See* Amendment No. 1, *supra* note 3.

[18] *See* Amendment No. 3, *supra* note 7.

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3347; Amendment #1]

State of Texas

In accordance with a notice received from the Federal Emergency Management Agency, dated June 18, 2001, the above-numbered Declaration is hereby amended to include Grimes and Harrison Counties in the State of Texas as disaster areas caused by Tropical Storm Allison occurring on June 5, 2001 and continuing.

In addition, applications for economic injury loans from small businesses located in Marion and Washington Counties in the State of Texas; and Caddo Parish in the State of Louisiana may be filed until the specified date at the previously designated location. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

All other information remains the same, i.e., the deadline for filing

applications for physical damage is August 8, 2001, and for loans for economic injury is March 8, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 19, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–15915 Filed 6–25–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3345; Amendment #2]

State of West Virginia

In accordance with a notice received from the Federal Emergency Management Agency, dated June 18, 2001, the above-numbered Declaration is hereby amended to include Preston County in the State of West Virginia as a disaster area caused by flooding, severe storms, and landslides beginning on May 15, 2001 and continuing.

In addition, applications for economic injury loans from small businesses located in Barbour, Monongalia, Tucker and Taylor Counties in the State of West Virginia; Garrett County in the State of Maryland; and Fayette County in the State of Pennsylvania may be filed until the specified date at the previously designated location. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

The economic injury numbers assigned are 9L9500 for Maryland and 9L9600 for Pennsylvania.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 2, 2001, and for loans for economic injury is March 4, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 19, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–15914 Filed 6–25–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3707]

Bureau of Nonproliferation; Imposition of Nonproliferation Measures Against a Chinese Entity, Including Ban on U.S. Government Procurement

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A determination has been made that a Chinese entity has engaged in activities that require the imposition of measures pursuant to Section 3 of the Iran Nonproliferation Act of 2000.

EFFECTIVE DATE: June 14, 2001.

FOR FURTHER INFORMATION CONTACT: On general issues: Vann H. Van Diepen, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State, (202–647–1142). On U.S. Government procurement ban issues: Gladys Gines, Office of the Procurement Executive, Department of State, (703–516–1691).

SUPPLEMENTARY INFORMATION: Pursuant to sections 2 and 3 of the Iran Nonproliferation Act of 2000 (P.L. 106–178), the U.S. Government determined on June 11, 2001, that the measures authorized in section 3 of the Act shall apply to the following foreign entity identified in the report submitted pursuant to section 2(a) of the Act: Jiangsu Yongli Chemicals and Technology Import and Export Corporation (China) and any successor, sub-unit, or subsidiary thereof.

Accordingly, pursuant to the provisions of the Act, the following measures are imposed on this entity:

1. No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods, technology, or services from the foreign person.

2. No department or agency of the United States Government may provide any assistance to the foreign person, and that person shall not be eligible to participate in any assistance program of the United States Government;

3. No United States Government sales to the foreign person of any item on the United States Munitions List (as in effect on August 8, 1995) are permitted, and all sales to that person of any defense articles, defense services, or design and construction services under the Arms Export Control Act are terminated; and,

4. No new individual licenses shall be granted for the transfer to the foreign person of items, the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations, and any existing such licenses are suspended.

These measures shall be implemented by the responsible departments and agencies of the United States Government and will remain in place for two years, except to the extent that the Secretary of State may subsequently determine otherwise. A new determination will be made in the event that circumstances change in such a manner as to warrant a change in the duration of sanctions.

Dated: June 18, 2001.

Robert J. Einhorn,

Assistant Secretary of State for Nonproliferation, U.S. Department of State.

[FR Doc. 01–16009 Filed 6–25–01; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 3708]

Bureau of Nonproliferation; Imposition of Nonproliferation Measures Against a North Korean Entity, Including Ban on U.S. Government Procurement

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A determination has been made that a North Korean entity has engaged in activities that require the imposition of measures pursuant to Section 3 of the Iran Nonproliferation Act of 2000.

EFFECTIVE DATE: June 14, 2001.

FOR FURTHER INFORMATION CONTACT: On general issues: Vann H. Van Diepen, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State, (202–647–1142). On U.S. Government procurement ban issues: Gladys Gines, Office of the Procurement Executive, Department of State, (703–516–1691).

SUPPLEMENTARY INFORMATION: Pursuant to sections 2 and 3 of the Iran Nonproliferation Act of 2000 (P.L. 106–178), the U.S. Government determined on June 11, 2001, that the measures authorized in section 3 of the Act shall apply to the following foreign entity identified in the report submitted pursuant to section 2(a) of the Act: Changgwang Sinyong Corporation (North Korea) and any successor, sub-unit, or subsidiary thereof.

Accordingly, pursuant to the provisions of the Act, the following measures are imposed on this entity:

1. No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods, technology, or services from the foreign person;

2. No department or agency of the United States Government may provide any assistance to the foreign person, and that person shall not be eligible to participate in any assistance program of the United States Government;

3. No United States Government sales to the foreign person of any item on the United States Munitions List (as in

effect on August 8, 1995) are permitted, and all sales to that person of any defense articles, defense services, or design and construction services under the Arms Export Control Act are terminated; and,

4. No new individual licenses shall be granted for the transfer to the foreign person of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations, and any existing such licenses are suspended.

These measures shall be implemented by the responsible departments and agencies of the United States Government and will remain in place until April 6, 2002, except to the extent that the Secretary of State may subsequently determine otherwise. A new determination will be made in the event that circumstances change in such a manner as to warrant a change in the duration of sanctions.

Dated: June 18, 2001.

Robert J. Einhorn,

Assistant Secretary of State for Nonproliferation, U.S. Department of State.

[FR Doc. 01–16010 Filed 6–25–01; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9970]

Great Lakes Pilotage Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is soliciting applications for appointment as a member who has a background in finance or accounting to the Great Lakes Pilotage Advisory Committee (GLPAC). GLPAC advises the Coast Guard on regulations and policies for the pilotage of vessels on the Great Lakes.

DATES: Application forms should reach us on or before July 26, 2001.

ADDRESSES: You may request an application form by writing to Commandant (G–MW), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–6164; or by faxing 202–267–4700. Send your application in written form to the above address. This notice and the application form are available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Frank Flyntz, Executive Director of GLPAC, or Tom Lawler, Assistant to the Executive Director, telephone 202–267–1068 or 202–267–1241, fax 202–267–4700.

SUPPLEMENTARY INFORMATION: The Great Lakes Pilotage Advisory Committee is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Assistant Commandant for Marine Safety and Environmental Protection on matters relating to Great Lakes pilotage. It may advise, consult with, report to, and make recommendations to the Secretary of the Department of Transportation and may make these recommendations available to the Congress.

GLPAC meets at the call of the Secretary at least once a year. It may also meet at the call of a majority of its members. Its subcommittees and working groups may meet to consider specific problems as required.

GLPAC is composed of seven members as follows:

(a) The President of a pilots' association in each of the three Great Lakes pilotage districts.

(b) One member who represents the interests of vessel operators that contract for Great Lakes pilotage services.

(c) One member who represents the interests of Great Lakes ports.

(d) One member who represents the interests of shippers whose cargoes are transported through Great Lakes ports; and

(e) One member.

The candidate for appointment by the Secretary of Transportation must be recommended to the Secretary by a unanimous vote of the members serving on the Committee.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: June 1, 2001.

Jeffrey P. High,

Director, Waterways Management.

[FR Doc. 01–15992 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD17–01–002]

Application for Recertification of Prince William Sound Regional Citizen's Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: The Coast Guard announces the availability of the application for recertification submitted by the Prince William Sound Regional Citizen's Advisory Council (PWSRCAC) for March 1, 2001 through February 28, 2002. Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, the Coast Guard may certify, on an annual basis, an alternative voluntary advisory group in lieu of a Regional Citizen's Advisory Council for Prince William Sound.

DATES: Comments must reach the Seventeenth Coast Guard District on or before July 26, 2001.

ADDRESSES: You may mail your comments to the Seventeenth Coast Guard District (mor), P.O. Box 25517, Juneau, AK, 99802–5517. You may also deliver them to the Juneau Federal Building, room 753, 709 W 9th St, Juneau, AK between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

The Seventeenth Coast Guard District maintains the public docket for this recertification process. Comments regarding recertification will become part of this docket and will be available for inspection or copying at the Juneau Federal Building, room 753, 709 W 9th St.

A copy of the application is also available for inspection at the Prince William Sound Regional Citizen's Advisory Council Offices at 3709 Spenard Road, Anchorage, AK 99503 and 154 Fairbanks Drive, Valdez, AK 99686 between the hours of 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number in Anchorage is (907) 277–7222 and the telephone number in Valdez is (907) 835–5957.

FOR FURTHER INFORMATION CONTACT: For questions on viewing or submitting material to the docket contact LT Ryan Murphy, Seventeenth Coast Guard District (mor), (907) 463–2817.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or arguments. It solicits comments from interested groups including oil terminal facility owners and operators, owners and operators of crude oil tankers calling at terminal facilities, and fishing, aquacultural, recreational and environmental citizens groups, concerning the recertification application of PWSRCAC. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD17–01–001) and the specific section of this document to which each comment applies, and give the reason for each comment. Please

submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Public Meeting

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (m), Seventeenth Coast Guard District, P.O. Box 25517, Juneau, AK, 99802–5517. The request should include reasons why a hearing would be beneficial. If there is sufficient evidence to determine that oral presentations will aid this recertification process, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard published guidelines on December 31, 1992 (57 FR 62600), to assist groups seeking recertification under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act). The Coast Guard issued a policy statement on July 7, 1993 (58 FR 36505), to clarify the factors that the Coast Guard would be considering in making its determination as to whether advisory groups should be certified in accordance with the Act; and the procedures which the Coast Guard would follow in meeting its certification responsibilities under the Act. Most recently, on December 28, 2000 (65 FR 82451) the Coast Guard published a proposal and request for comments to streamline the RCAC certification process. The comments received on that proposal are under review prior to implementing changes to the certification process.

The Coast Guard has received an application for certification of PWSRCAC, the currently certified advisory group for the Prince William Sound region. In accordance with the review and certification process contained in the policy statement, the Coast Guard announces the availability of that application.

At the conclusion of the comment period, the Coast Guard will review all application materials and comments received and will take one of the following actions:

(a) Recertify the advisory group under 33 U.S.C. 2732(o).

(b) Issue a conditional recertification for a period of 90 days, with a statement of any discrepancies, which must be corrected to qualify for recertification for the remainder of the year.

(c) Deny recertification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of 33 U.S.C. 2732.

The Coast Guard will notify PWSRCAC by letter of the action taken on its application. A notice will be published in the **Federal Register** to advise the public of the Coast Guard's determination.

Dated: June 1, 2001.

T.J. Barrett,

Rear Admiral, U.S. Coast Guard, Commander, Seventeenth Coast Guard District.

[FR Doc. 01–15993 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration (FAA)

Notice of Opportunity for Public Comment on Surplus Property Release at Walterboro Municipal Airport, Walterboro, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. section 47153(c), notice is being given that the FAA is considering a request from the City of Walterboro and Collection County to waive the requirement that a 2.0-acre parcel of surplus property, located at the Walterboro Municipal Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before July 26, 2001.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to L. Chriswell Bickley, Jr., of the Walterboro-Colleton County Airport Commission at the following address: P.O. Box 8, Walterboro, SC 29488.

FOR FURTHER INFORMATION CONTACT: Rusty Nealis, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747, (404) 305–7142. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by City of Walterboro and Colleton County to release 2.0 acres of surplus property at the Walterboro Municipal Airport. The property will be purchased by Marion R. Simmons, III and used to maintain adequate drainage control for Simmons Irrigation Company. The net proceeds from the sale of this property will be used for airport purposes. The proposed use of this property is compatible with airport operations.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Walterboro-Colleton County Airport Commission.

Issued in Atlanta, Georgia on June 12, 2001.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 01–15989 Filed 6–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–2000–7918 and FMCSA–2001–9258]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FMCSA announces its decision to exempt 41 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: June 26, 2001.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, 202–366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, 202–366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Background

Forty-one individuals petitioned the FMCSA for an exemption from the

vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Jerry T. Branam, Daniel R. Brewer, William A. Burgoyne, Brett L. Condon, Mark W. Coulson, Thomas W. Craig, Myron D. Dixon, Terry W. Dooley, Don W. Dotson, James W. Harris, Larry M. Hawkins, George A. Hoffman III, Lee P. Holt, Steve L. Hopkins, Donald A. Jahr, Alfred C. Jenkins, Donald L. Jensen, Robert L. Joiner, Jr., James P. Jones, Clarence R. Keller, Bruce E. King, Larry J. Lang, Dennis D. Lesperance, Earnest W. Lewis, John W. Locke, Herman G. Lovell, Ronald L. Maynard, Larry T. Morrison, Gayle G. Olson, Eddie L. Paschal, Thomas G. Raymond, Richard S. Rehbein, David E. Sanders, Richard C. Simms, David B. Speller, Royal H. Stephens, Tyson C. Stone, Lynn D. Veach, Kevin L. Wickard, Charles M. Wilkins, and Michael C. Wines.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, the FMCSA has evaluated the 41 petitions on their merits and made a determination to grant the exemptions to all of them. On April 3, 2001, the agency published notice of its receipt of applications from 38 of these individuals, and requested comments from the public (66 FR 17743). The comment period closed on May 3, 2001. In the cases of Mr. Burgoyne, Mr. Dotson, and Mr. Raymond, the agency published notice of receipt of their applications along with 62 other applications, and requested comments from the public on November 3, 2000 (65 FR 66286). The decisions on their applications were not made earlier because the agency had received additional information from its ongoing checks of their motor vehicle records and was evaluating that information (66 FR 13826, March 7, 2001). The FMCSA received one comment in response to the notice of 38 applications on April 3, 2001, and two comments in response to the notice of 65 applications on November 3, 2000. One comment received from the November 3, 2000, notice pertained to an applicant not being considered here, and was addressed at 66 FR 13828 (March 7, 2001). The contents of the other two comments were carefully considered in reaching the final decision to grant the petitions in this notice.

Vision and Driving Experience of the Applicants

The vision requirement provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

Since 1992, the Federal Highway Administration (FHWA), the predecessor agency to the FMCSA, has undertaken studies to determine if this vision standard should be amended. The final report from the medical panel recommended changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket, FHWA–98–4334). The panel's conclusion supports the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 41 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, corneal and retinal scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 13 of the applicants were either born with their vision impairments or have had them since childhood. The 13 individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 40 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a commercial motor vehicle (CMV). The doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs that allow them to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 41 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 40 years. In the past 3 years, the drivers had 8 convictions for traffic violations among them. Five of these convictions were for Speeding, two were for Failure to Obey Traffic Instructions Sign/Device, and one was for Following Too Closely. Two drivers were involved in accidents in their CMVs, but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the April 3, 2001, and November 3, 2000, notices (66 FR 17743 and 65 FR 66286). Since the docket comments did not focus on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. One change is noted: Mr. Burgoyne's driving record shows he was involved in a CMV accident after publication of the notice on November 3, 2000. In a very heavy snowstorm, the vehicle he was driving was hit in the rear by another vehicle. He was not cited for the accident. Our summary analysis of the applicants as a group is supported by the information published at 66 FR 17743 and 65 FR 66286.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA

considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket (FHWA–98–3637).

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 41 applicants, we note that cumulatively the applicants have had only 2 accidents and 8 traffic violations in the last 3 years. Neither of the accidents resulted in the issuance of a citation against the applicants. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience provides an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received one comment in response to the notice of 38 applications on April 3, 2001 (66 FR 17743), and two comments in response to the notice of 65 applications on November 3, 2000 (65 FR 66286). One comment received from the November 3, 2000, notice pertained to an applicant not being considered here, and was addressed at 66 FR 13828 (March 7, 2001). The other comments were considered for this notice and are discussed below.

Comments were received from the Advocates for Highway and Auto Safety (AHAS) in response to both notices of applications. The AHAS expresses continued opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), including the driver qualification standards. Specifically, the AHAS: (1) Objects to the manner in which the FMCSA presents driver information to the public and makes safety determinations, (2) objects to the agency's reliance on conclusions drawn from the vision waiver program, (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)), and finally, (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by the AHAS were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again

here, but refer interested parties to those earlier discussions.

Notwithstanding the FMCSA's ongoing review of the vision standard, as evidenced by the medical panel's report dated October 16, 1998, and filed in this docket, the FMCSA must comply with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F.3d 715 (8th Cir. 1996), and grant individual exemptions under standards that are consistent with public safety. Meeting those standards, the 41 veteran drivers in this case have demonstrated to our satisfaction that they can continue to operate a CMV with their current vision condition safely in interstate commerce, because they have demonstrated their ability in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

Conclusion

After considering the comments to the docket and based upon its evaluation of the 41 exemption applications in accordance with the Rauenhorst decision, the FMCSA exempts Jerry T. Branam, Daniel R. Brewer, William A. Burgoyne, Brett L. Condon, Mark W. Coulson, Thomas W. Craig, Myron D. Dixon, Terry W. Dooley, Don W. Dotson, James W. Harris, Larry M. Hawkins, George A. Hoffman III, Lee P. Holt, Steve L. Hopkins, Donald A. Jahr, Alfred C. Jenkins, Donald L. Jensen, Robert L. Joiner, Jr., James P. Jones, Clarence R. Keller, Bruce E. King, Larry J. Lang, Dennis D. Lesperance, Earnest W. Lewis, John W. Locke, Herman G. Lovell, Ronald L. Maynard, Larry T. Morrison, Gayle G. Olson, Eddie L. Paschal, Thomas G. Raymond, Richard S. Rehbein, David E. Sanders, Richard C. Simms, David B. Speller, Royal H. Stephens, Tyson C. Stone, Lynn D. Veach, Kevin L. Wickard, Charles M. Wilkins, and Michael C. Wines from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year, (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Authority: 49 U.S.C. 322, 31315 and 31136; and 49 CFR 1.73.

Issued on: June 21, 2001.

Brian M. McLaughlin,

Acting Deputy Administrator.

[FR Doc. 01–16067 Filed 6–22–01; 11:28 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34056]

Fore River Transportation Corp.—Change in Operators Exemption—Fore River Railroad Corporation and Massachusetts Water Resources Authority

Fore River Transportation Corp. (FRT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate the rail line of Massachusetts Water Resources Authority (MWRA) and Fore River Railroad Corporation (FRRC) [1] extending approximately 3.76 miles between a point in the City of Quincy, MA, and an interchange with CSX Transportation, Inc., in the Town of Braintree, MA (line).[2] FRT states that it will soon enter into an agreement with FRRC to provide rail freight service over the line.

The transaction is expected to be consummated on July 1, 2000.[3]

[1] MWRA, a governmental body, owns the line. FRRC, MWRA's wholly owned subsidiary, has the residual common carrier obligation with respect to the line.

[2] The line consists of approximately 1.83 miles of branch line and approximately 1.93 miles of spur and/or side track.

[3] FRT further states that, upon consummation, Quincy Bay Terminal Co., the current operator of the line, will cease all operations on the line. This change in operators is exempt under 49 CFR 1150.31(a)(3).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34056, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard H. Streeter, Esq., Barnes & Thornburg, 1401 I Street, NW., Suite 500, Washington, DC 20005.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: June 19, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–15986 Filed 6–25–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—Millers Mutual Insurance Association

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 17 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000 at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–7102.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 65 FR 40891, June 30, 2000.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In

addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: June 18, 2001.

Wanda J. Rogers,

Acting Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 01–15917 Filed 6–25–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—TIG Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 18 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000 at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, title 31, sections 9304–9308, to quality as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 65 FR 40901, June 30, 2000.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: June 18, 2001.

Wanda J. Rogers,

Acting Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 01–15918 Filed 6–25–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request: Correction

ACTION: Notice; correction.

SUMMARY: Office of Thrift Supervision within the Department of the Treasury published a document in the **Federal Register** on June 19, 2001, concerning the request for comments on proposed information collection titled Merger Application, 1550–0016. An e-mail address was omitted from the document.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Office of Examination Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552 (202) 906–6706.

Correction

In the **Federal Register** of June 19, 2001, in FR Doc. 01–15365, on page 32981, in the first column, line 28, after ''e-mail to'', insert the following address ''publicinfo@ots.treas.gov''.

Dated: June 20, 2001.

Sandra E. Evans,

Federal Register Liaison Officer.

[FR Doc. 01–15920 Filed 6–25–01; 8:45 am]

BILLING CODE 6720–01–P

Federal Register

Tuesday,
June 26, 2001

Part II

Environmental Protection Agency

40 CFR Parts 52 and 81

Approval and Promulgation of Implementation Plans; States of Illinois and Missouri; 1-Hour Ozone Attainment Demonstrations, Motor Vehicle Emissions Budgets, Reasonably Available Control Measures, Contingency Measures, Attainment Date Extension, and Withdrawal of Nonattainment Determination and Reclassification; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Tracking No. MO–0132–1132, IL 196–3; FRL–7001–7]

Approval and Promulgation of Implementation Plans; States of Illinois and Missouri; 1-Hour Ozone Attainment Demonstrations, Motor Vehicle Emissions Budgets, Reasonably Available Control Measures, Contingency Measures, Attainment Date Extension, and Withdrawal of Nonattainment Determination and Reclassification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Clean Air Act (Act), EPA is approving the Illinois and Missouri 1-hour ozone attainment demonstration State Implementation Plans (SIP) for the St. Louis moderate ozone nonattainment area. In conjunction with its approval of the attainment demonstration, EPA is: extending the ozone attainment date for the St. Louis ozone nonattainment area to November 15, 2004, while retaining the area's current classification as a moderate ozone nonattainment area; withdrawing EPA's March 19, 2001, rulemaking determining nonattainment and reclassification of the St. Louis ozone nonattainment area; finding that the St. Louis ozone nonattainment area meets the reasonably available control measures (RACM) requirements of the Act; finding that the contingency measures identified by the states of Illinois and Missouri are adequate; approving the Illinois and Missouri motor vehicle emissions budgets (MVEB); and approving an exemption from the oxides of nitrogen (NO_X) emission control requirements for reasonably available control technology (RACT) and disapproving an exemption from the NO_X new source review (NSR) and NO_X conformity requirements for the Illinois portion of the St. Louis ozone nonattainment area.

DATES: This rule is effective immediately June 26, 2001.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the following addresses: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604; or U.S. Environmental Protection Agency, Region 7, Air, RCRA, and Toxics Division, 901 North 5th Street, Kansas City, Kansas 66101. Please make arrangements prior to visiting the Regional Offices.

FOR FURTHER INFORMATION CONTACT: Edward Doty, EPA Region 5, (312) 886–6057; or Lynn M. Slugantz, EPA Region 7, (913) 551–7883.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Background

A notice of proposed rulemaking was published on this action on April 17, 2000 (65 FR 20404), and notices of supplemental proposed rulemakings were published on April 3, 2001 (66 FR 17647), and April 19, 2001 (66 FR 20122). In a related **Federal Register** in March 1999 (64 FR 13384), EPA has also published a notice regarding the St. Louis area's potential eligibility for an attainment date extension. EPA received comments on these proposals. EPA has also received comments on a related notice: the ''Extension of Attainment Dates for Downwind Transport Areas,'' 64 FR 12221 (March 25, 1999). In this final rule, EPA responds to adverse comments on these proposed rulemakings and notices. For details on the SIP submittals and the EPA analysis of the submittals, refer to the notices of proposed rules referenced above in this paragraph, and the technical support document for the April 17, 2000, proposal.

EPA is making this final rulemaking effective immediately. Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the nonattainment determination and reclassification (which is being withdrawn as a result of this final rule) is imminent. In addition, EPA finds good cause for making this action effective immediately because, in part, it relieves a restriction that would otherwise go into effect.

Information

This section provides additional information by addressing the following questions:

I. What Illinois and Missouri SIP revisions are the topic of this action?
II. What previous actions have been taken regarding the St. Louis area attainment demonstrations and attainment dates?
III. What MVEBs are we approving?
IV. How did Illinois fulfill the requirements for an exemption from NO_X emission control requirements for RACT for the Illinois portion of the St. Louis ozone nonattainment area?
V. What Contingency Measures are we approving for the St. Louis area?
VI. Implementation of RACM.
VII. What are the requirements for full approval of the attainment demonstration?
VIII. Did Illinois and Missouri fulfill these requirements for full approval?
IX. What are the requirements for an attainment date extension?
X. How did Illinois and Missouri satisfy the criteria for an extension?
XI. What action is EPA taking regarding the Determination of Nonattainment as of November 15, 1996, and Reclassification published on March 19, 2001?
XII. What comments were received on the proposals covered by this final action, and on the March 25, 1999, publication of the attainment date extension policy, and how has EPA responded to those?
XIII. What action is EPA taking regarding the state submittals addressed by this final rule?

I. What Illinois and Missouri SIP Revisions Are the Topic of This Action?

The St. Louis ozone nonattainment area encompasses the interstate area of Madison, Monroe, and St. Clair Counties in Illinois; and Franklin, Jefferson, St. Charles, St. Louis Counties, and the City of St. Louis in Missouri. The states of Illinois and Missouri made several submittals to us relating to the ozone attainment demonstration and their request for an extension of the attainment date for the St. Louis ozone nonattainment area. The submittals listed below relate directly to EPA's final action described in this document.

1. In November 1994, the Illinois Environmental Protection Agency (IEPA) submitted a 15% Rate-Of-Progress Plan (ROPP) for the control of volatile organic compound (VOC) emissions in the Illinois portion of the St. Louis area. This 15% ROPP, as supplemented on January 31, 1995, was approved by EPA in a final rulemaking on July 14, 1997 (62 FR 37494);

2. In October 1997, the Missouri Department of Natural Resources (MDNR) submitted to EPA the contingency measures rules for the Missouri portion of the St. Louis ozone nonattainment area. This contingency measures SIP, as supplemented on April 5, 2001, is being approved as a part of this final rulemaking;

3. In a submission dated November 10, 1999, MDNR submitted an ozone attainment demonstration along with several additional SIP revisions. The attainment demonstration, as supplemented on November 2, 2000, is

being approved today. Those additional SIP revisions submitted on November 10, 1999, include:

i. Regulations and associated documentation for the control of VOC emissions from various industries and existing major sources. These VOC RACT rules were approved by EPA in a final rulemaking on May 18, 2000 (65 FR 31489);

ii. Regulations and associated documentation for the control of NO_X emissions intended to meet NO_X RACT requirements of the Act in the Missouri portion of the St. Louis nonattainment area. This NO_X RACT rule was approved by EPA in a final rulemaking on May 18, 2000 (65 FR 31482);

iii. A 15% ROPP for the control of VOC emissions in the Missouri portion of the St. Louis nonattainment area. EPA approved Missouri's 15% ROPP on May 18, 2000 (65 FR 31485); and

iv. An improved vehicle inspection and maintenance (I/M) program. EPA approved Missouri's vehicle I/M program on May 18, 2000 (65 FR 31480).

4. On November 15, 1999, IEPA submitted a letter outlining the ozone attainment strategy for the St. Louis area and the state's emission control commitments. As explained in the March 18, 1999, notice, Illinois had previously submitted a number of control measures for its portion of the St. Louis area (64 FR 13384, 13388–13389).

5. On February 10, 2000, IEPA submitted its adopted ozone attainment demonstration SIP. This SIP revision includes a petition for an exemption from NO_X RACT, NO_X NSR, and certain conformity NO_X requirements for the Illinois portion of the St. Louis ozone nonattainment area. This SIP revision also reflects the emission modifications and attainment demonstration revisions resulting from the emission controls contained in a January 19, 2000, submittal from MDNR. EPA is taking final action on this SIP revision in today's rulemaking;

6. On November 2, 2000, MDNR submitted an adopted attainment demonstration revision. EPA is taking final action on this SIP revision in today's rulemaking;

7. On November 15, 2000, MDNR submitted adopted regulations for NO_X emission controls for electricity generating units (EGU) within the state. EPA approved those regulations in a final rulemaking on December 28, 2000 (65 FR 82285);

8. On February 28, 2001, and April 13, 2001, respectively, Missouri and Illinois submitted comparisons of estimated 2004 VOC and NO_X emissions for the St. Louis area with their previously submitted 2003 emission estimates for all source sectors. The states also accounted for expected changes in the 2003 and 2004 EGU NO_X emissions inventories for the states of Illinois, Indiana, Kentucky, Ohio, and Tennessee. In addition, Missouri's 2004 EGU NO_X emissions were analyzed with respect to both the current statewide NO_X control regulations and the anticipated impacts of compliance with EPA's NO_X SIP call. The current Missouri NO_X rules and anticipated potential revisions to the Missouri NO_X rules are explained in our April 3, 2001, supplemental proposed rulemaking (66 FR 17653). The February 28, 2001, and April 13, 2001, attainment demonstration SIPs are being approved as a part of today's rulemaking;

9. On February 28, 2001, and April 13, 2001, respectively, Missouri and Illinois submitted emissions inventory and transportation conformity budgets in final form, revised to reflect an attainment date of 2004. EPA is approving these emission budgets in today's rulemaking;

10. On March 7, 2001, and April 30, 2001, respectively, Missouri and Illinois committed to revise and resubmit their MVEBs within two years of the release of MOBILE6. EPA is approving these supplemental commitments as a part of the states' SIPs in today's rulemaking; and

11. On May 8, 2001, IEPA submitted a final NO_X rule for EGUs needed to support the ozone attainment demonstration for the St. Louis area. On June 8, 2001, EPA signed a final rule approving the Illinois NO_X EGU regulations.

II. What Previous Actions Have Been Taken Regarding the St. Louis Area Attainment Demonstrations and Attainment Dates?

On March 18, 1999 (64 FR 13384), EPA proposed in the **Federal Register** to find that the St. Louis ozone nonattainment area had not attained the 1-hour ozone national ambient air quality standard (NAAQS) by the attainment date (November 15, 1996) for moderate nonattainment areas. Also in that notice, EPA issued a notice of the St. Louis area's potential eligibility for an attainment date extension, pursuant to EPA's, ''Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas'' (hereinafter referred to as the attainment date extension policy) (Richard D. Wilson, Acting Assistant Administrator for Air and Radiation) issued on July 16, 1998. In the March 18, 1999, **Federal Register**, EPA proposed to finalize the reclassification of the St. Louis nonattainment area only after the area had an opportunity to qualify for an attainment date extension under the attainment date extension policy.

On April 17, 2000 (65 FR 20404), EPA proposed to approve, or in the alternative, disapprove, Illinois' and Missouri's 1-hour ozone attainment demonstration SIPs for the St. Louis ozone nonattainment area. In that notice, we stated that we would disapprove the attainment demonstration if the states did not submit specific revisions to the attainment demonstration and other associated documents. These revisions and documents were necessary to provide or support fully approvable ozone attainment demonstrations SIPs and to meet the criteria of EPA's attainment date extension policy. Also, in that notice we proposed to approve an extension of the ozone attainment date for the St. Louis area to November 15, 2003, while retaining the area's classification as a moderate ozone nonattainment area, if EPA took final action to approve the states' ozone attainment demonstrations. EPA also proposed other related actions in the April 17, 2000, proposal.

Subsequent to the April 17, 2000, proposed rulemaking, relevant court decisions affecting the proposed extended attainment date for the St. Louis area were issued. First, on August 30, 2000, the United States Court of Appeals for the District of Columbia Circuit issued an Order (*Michigan* v. *EPA,* No. 98–1497, August 30, 2000), extending the source compliance date for the state rules resulting from the NO_X SIP call from May 1, 2003, to May 31, 2004. The effect of this ruling is that the regional NO_X emission reductions relied on in the attainment demonstration cannot be assumed to occur before the Court-ordered compliance date. As such, EPA requested that Illinois and Missouri consider the impacts of this ruling on the St. Louis area ozone attainment demonstrations.

Second, on January 29, 2001, the United States District Court for the District of Columbia ordered EPA to make a determination, no later than March 12, 2001, to be published not later than March 20, 2001, as to whether the St. Louis area attained the requisite 1-hour ozone standard. (*Sierra Club* v. *Browner,* 130 F. Supp. 2d 78 (D.D.C. 2001)). In compliance with the Court's Order, on March 19, 2001 (66 FR 15578), we published in the **Federal Register** our determination that the St. Louis ozone nonattainment area did not attain the 1-hour ozone standard by November 15, 1996. By operation of

law, that determination would result in the St. Louis ozone nonattainment area being reclassified from a moderate to a serious nonattainment area on the effective date of that rule, which was originally May 18, 2001, but which was subsequently modified to June 29, 2001, 66 FR 27036 (May 16, 2001). In the March 19, 2001, rulemaking, EPA also set forth its intent to withdraw the final determination and reclassification, if EPA granted the states an attainment date extension before the effective date of the determination and reclassification rule.

The Sierra Club and Missouri Coalition for the Environment filed a Petition for a Writ of Prohibition in the United States Court of Appeals for the D.C. Circuit (No. 01–1141) to prevent EPA from granting an attainment date extension to the St. Louis area and from withdrawing EPA's determination of nonattainment. EPA filed an opposition to this petition, and the Court, in an Order filed June 8, 2001, denied the petition. In addition, three separate appeals by the Sierra Club and Missouri Coalition for the Environment, the state of Illinois, and the state of Missouri, of the Court's Order issued January 29, 2001, as modified on February 15, 2001 (130 F. Supp. 2d 78 (D.D.C. 2001) have been consolidated in the U.S. Court of Appeals for the D.C. Circuit *Sierra Club* v. *Whitman* (D.C. Cir. No. 01–5123, 01–5061, 01–5063).

Finally, Illinois and Missouri petitioned for review of EPA's final agency action published March 19, 2001 (66 FR 15578). Missouri filed its petition in the 8th Circuit (No. 01–2162) and Illinois filed in the 7th Circuit *Illinois* v. *EPA,* No. 01–2257. EPA has moved to transfer the Illinois petition to the 8th Circuit. EPA and the states have also filed a joint motion to stay proceedings in the 8th Circuit pending EPA's rulemaking with respect to withdrawal of the nonattainment determination and reclassification.

On April 3, 2001 (66 FR 17647), EPA published in the **Federal Register** a supplement to our April 17, 2000, proposed rule. In that supplemental notice, EPA addressed supplemental state submittals relating to corrections to the 1996 emissions inventory and the Missouri transportation conformity budget called for in the April 17, 2000, proposed rule, and additional submissions by the states relevant to the modeled attainment demonstration and MVEBs. Also, in our April 3, 2001, supplemental notice, we proposed to extend the attainment date for the St. Louis area to November 15, 2004, and to withdraw the March 19, 2001, Determination of Nonattainment and Reclassification if EPA approved an attainment date extension prior to the effective date of the Determination of Nonattainment. At the time the initial attainment demonstrations were prepared and submitted for the St. Louis area, the states were using an attainment date of 2003 based on the October 1998 NO_X SIP call (62 FR 60318), consistent with the attainment date extension policy. As noted above, a subsequent August 30, 2000, decision in *Michigan* v. *EPA,* delayed the NO_X SIP call source compliance date to May 31, 2004. Because the attainment demonstration for the St. Louis area relies on the upwind, NO_X emission reductions resulting from the NO_X SIP call, the attainment deadline cannot be earlier than the date by which upwind states must have controls in place to address NO_X emissions. (See, 66 FR 17647, 17649, April 3, 2001.)

On April 19, 2001 (66 FR 20122), EPA published a supplemental notice in which we proposed to find that Missouri and Illinois have met the RACM requirements of the Act and that the contingency measures identified by the states are adequate to meet the requirements of the Act. Finally, on May 16, 2001, EPA published a final rule delaying the effective date of the nonattainment determination and reclassification (66 FR 27036).

EPA has received comments on portions of our March 18, 1999; April 17, 2000; April 3, 2001; and April 19, 2001, proposed rules. The Sierra Club and the Missouri Coalition for the Environment jointly submitted adverse comments on portions of the March 18, 1999; April 17, 2000; and April 3, 2001, proposed rules. EPA received no adverse comments on the April 19, 2001, proposal. EPA also received no adverse comments on its April 3, 2001, proposed withdrawal of the March 19 rulemaking if it granted an extension of the attainment date. All other comments on the proposals supported EPA's proposed actions. In this final rule, EPA responds to the adverse comments received in response to the relevant proposals. EPA also responds to the relevant adverse comments on its March 25, 1999, notice of interpretation regarding the attainment date extension policy (64 FR 12221).

III. What MVEBs Are We Approving?

Illinois and Missouri have submitted MVEBs for the 2004 attainment year for their respective portions of the St. Louis ozone nonattainment area. The emissions budgets are shown in Table 1.

TABLE 1.—ST. LOUIS AREA 2004 ATTAINMENT MVEB

State	Pollutant	2004 tons/day
Missouri	VOC	43.74
	NO_X	91.90
Illinois	VOC	26.62
	NO_X	35.52

EPA did not receive any adverse comments on the proposal to approve the emissions budgets. EPA is approving these MVEBs because they are consistent with the control measures in the SIPs, and the SIPs as a whole demonstrate attainment of the 1-hour ozone standard. The rationale for our approval is detailed in the April 3, 2001, supplemental proposal (66 FR 17647, 17652) and in the April 17, 2000, proposal (65 FR 20404, 20416). Missouri has committed to revise its 2004 MVEBs within two years after the release of MOBILE6. Missouri has committed that if it does not revise its budgets within the first year after release of MOBILE6, no conformity determinations will be made during the second year unless adequate MOBILE6 derived budgets are in place. Illinois has committed to revise its 2004 MVEBs within two years of the release of MOBILE6. No conformity determinations may be made in either Missouri or Illinois during the second year unless adequate MOBILE6 derived budgets are in place.

All states whose attainment demonstrations include the effects of the Tier 2/sulfur program must commit to revise and resubmit their MVEBs after EPA releases MOBILE6. If a state fails to meet its commitment to submit revised budgets using MOBILE6, EPA could make a finding of failure to implement the SIP, which would start a sanctions clock under section 179 of the Act.

The final approval action we are taking today will be effective for conformity purposes only until revised MVEBs are submitted and we have found them adequate. In other words, the budgets we are approving today will apply for conformity purposes only until there are new, adequate budgets consistent with the states' commitments to revise the budgets. The new budgets will apply for conformity purposes after we find them adequate.

We are limiting the duration of our approval in this manner because we are only approving the attainment demonstrations and their budgets because the states have committed to revise them. Therefore, once we have confirmed that the revised budgets are adequate, they will be more appropriate

than the budgets we are approving for conformity purposes now.

If the revised budgets raise issues about the sufficiency of the attainment demonstration, EPA will work with states on a case-by-case basis. If the revised budgets show that motor vehicle emissions are lower than the budgets we are approving today, a reassessment of the attainment demonstration's analysis will be necessary before reallocating the emission reductions or assigning them to the MVEB as a safety margin. In other words, the states must assess how their original attainment demonstration is impacted by using MOBILE6 vs. MOBILE5 before they reallocate any apparent motor vehicle emission reductions resulting from the use of MOBILE6.

IV. How Did Illinois Fulfill the Requirements for an Exemption From NO_X Emission Control Requirements for RACT for the Illinois Portion of the St. Louis Ozone Nonattainment Area?

On February 10, 2000, IEPA submitted its adopted ozone attainment demonstration SIP. This SIP revision submittal included a petition for an exemption from NO_X RACT, NO_X NSR, and certain conformity NO_X requirements for the Illinois portion of the St. Louis ozone nonattainment area. This petition is based on Illinois' conclusion that it has demonstrated attainment of the 1-hour ozone standard without the need to implement these additional NO_X emission controls. Accordingly, under section 182(f)(2), these additional NO_X emission reductions may be considered ''in excess'' of reductions needed to attain the 1-hour ozone standard. The NO_X emission reductions in the attainment demonstration and control strategy submitted by Illinois are limited to NO_X emission reductions from EGUs needed to support the ozone attainment demonstration or other Act-required emission controls not included in their exemption petition. The ozone impacts in the St. Louis area resulting from NO_X emissions are dominated by the impacts of regional NO_X emissions from EGUs, and further controlling local NO_X emissions for other source categories in the Illinois portion of the nonattainment area would not significantly impact ozone levels or advance the attainment date.

The ozone attainment demonstration shows that application of the specific section 182(f)(1) NO_X control requirements in the Illinois portion of the nonattainment area would not be required to attain the 1-hour ozone standard by May 31, 2004. (See 65 FR 20402, 20419, April 17, 2000.) In addition, as explained in EPA's proposed rule relating to RACM and contingency measures (66 FR 20122, 20124–20125), sensitivity analyses performed by both states show that substantial local NO_X reductions would not accelerate attainment. In our April 17, 2000, document, EPA proposed to approve Illinois' petition with regard to an exemption from NO_X RACT, but to deny their petition for an exemption from NO_X NSR and NO_X conformity. The attainment demonstration indicated that additional NO_X emission reductions that could be expected to result from the implementation of RACT were not needed to achieve the ozone standard. The attainment demonstration, however, failed to demonstrate that attainment would also occur even if NO_X emissions significantly increased (the type of demonstration needed to support a waiver for NO_X NSR and NO_X conformity requirements). Our reasons for denying parts of Illinois' petition are explained in more detail in the April 17, 2000, proposed rule (see, 65 FR 20404, 20409–20410). We received no adverse comments with regard to this particular part of our proposal.

We are granting Illinois' request for an exemption from the NO_X RACT requirements, pursuant to section 182(f)(2) of the Act, for Madison, Monroe, and St. Clair Counties. We are denying Illinois' request for an exemption from the NO_X NSR and certain NO_X conformity requirements. Illinois has an approved NSR program covering, in part, NO_X, and has, as noted elsewhere in this rulemaking, submitted a motor vehicle NO_X emissions budget for the Illinois portion of the St. Louis ozone nonattainment area. Therefore, our denial of the Illinois request with respect to NO_X NSR and conformity does not result in any SIP deficiencies.

V. What Contingency Measures Are We Approving for the St. Louis Area?

Section 172(c)(9) of the Act requires that SIPs contain additional measures that will take effect without further action by the state or EPA if an area fails to attain the standard by the applicable date. In our April 19, 2001, **Federal Register**, we provide our interpretation of this requirement of the Act (66 FR 20122, 20125). According to EPA guidance referenced in that **Federal Register**, we indicate that states with moderate and above ozone nonattainment areas should include sufficient contingency measures so that, upon implementation of such measures, additional emissions reductions of up to 3 percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. As explained in the April 19, 2001, proposal, EPA has also determined that Federal measures can be used to analyze whether the contingency measure requirements of section 179(c)(9) have been met. While these Federal measures are not SIP-approved contingency measures which would apply if an area fails to attain, EPA believes that existing Federally enforceable measures can be used to provide the necessary substantive relief. Therefore, Federal measures may be used in the analysis, to the extent that the attainment demonstration does not rely on them or take credit for them.

Missouri's 1990 adjusted base year inventory of VOC emissions is 315.70 tons per day (TPD). Per EPA's guidance, Missouri's contingency measures must achieve VOC reductions equivalent to 3 percent of the adjusted base year inventory, or 9.47 TPD. Implementation of Missouri's solvent cleaning rule, 10 CSR 10–5.300, will provide for VOC emissions reductions of 8.36 TPD, and implementation of the Federal Tier 2/Low Sulfur Gasoline rule will provide for VOC emissions reductions of 1.59 TPD, for a combined emissions reduction of 9.95 TPD, which exceeds the required reductions of 9.47 TPD.

The total amount of reduction needed for Illinois to meet the contingency measure requirement in the Metro-East St. Louis nonattainment area is 3 percent of the adjusted base year emissions inventory or 4.96 TPD. Illinois has identified emissions reductions of 6.54 TPD from the Federal rules regarding On-Board Diagnostics, Tier 2/Low Sulfur Gasoline, Non-Road Engine Standards, and other mobile source measures which exceed the required reductions of 4.96 TPD. EPA did not receive any adverse comments on our proposal to approve the states' contingency measures. EPA finds that the measures identified in Table 2 below meet the requirements in section 172(c)(9). EPA is also hereby approving the contingency measures element of Missouri's SIP, as submitted in October 1997 and supplemented by a letter dated April 5, 2001.

TABLE 2.—ST. LOUIS AREA APPROVED CONTINGENCY MEASURES

State	Control measures
Missouri	Solvent Metal Cleaning Rule 10 CSR 10–5.300.
	Tier 2/Low Sulfur Fuel Program.
Illinois	Mobile Source Measures.

TABLE 2.—ST. LOUIS AREA APPROVED CONTINGENCY MEASURES—Continued

State	Control measures
	Tier 2/Low Sulfur Fuel Program. On-Board Diagnostics. Non-Road Engine Standards.

VI. Implementation of RACM

Section 172(c)(1) of the Act requires that SIPs provide for the implementation of all RACM as expeditiously as practicable. EPA has previously provided guidance interpreting the RACM requirements of 172(c)(1). (See 57 FR 13498, 13560.) We also discussed the RACM requirements in our April 19, 2001, **Federal Register** proposal. EPA has reviewed the states' submitted sensitivity analyses, the process used by the metropolitan planning organization (MPO) to review and select transportation control measures, the states' evaluation of potential stationary source control measures, and the attainment year emissions inventories for the St. Louis area. While the Act requires nonattainment areas to implement available RACM measures, EPA does not believe that section 172(c)(1) requires implementation of potential RACM measures that either require costly implementation efforts or that produce relatively small emissions reductions that will not accelerate attainment of the ozone standard.

Sensitivity modeling for the St. Louis area indicates that the ozone benefits expected to be achieved from regional NO_X reductions (such as the NO_X SIP call) are far greater than the ozone benefit that could be achieved by local implementation of the measures which have been rejected as possible RACM. Therefore, EPA believes that the reductions from such measures would not accelerate attainment of the ozone NAAQS.

EPA did not receive any adverse comments on our proposed finding that the states had satisfied the RACM requirements of the Act. Based upon the above, and upon the explanation provided in our April 19, 2001, proposed rule (66 FR 20122, 20123–20125), EPA is finding that the St. Louis nonattainment area SIPs adequately provide for RACM.

VII. What Are the Requirements for Full Approval of the Attainment Demonstration?

The attainment demonstration SIP must meet applicable criteria as detailed in the Act. The specific requirements of the Act for moderate ozone nonattainment areas are found in section 182(b)(1), and requirements for attainment demonstrations in multistate areas are found in section 182(j)(1)(B). Section 172 provides the general requirements for nonattainment plans. Refer to 65 FR 20404, 20406 in our April 17, 2000, proposal for further details of requirements for attainment demonstrations.

VIII. Did Illinois and Missouri Fulfill These Requirements for Full Approval?

EPA guidance published in 1996 suggests that states may rely on a modeled attainment demonstration supplemented with additional weight of evidence (WOE) to demonstrate attainment (''Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS,'' EPA–454/B–95–007, June 1996). In our April 17, 2000, **Federal Register** we listed documents containing EPA's guidelines affecting the content and review of ozone attainment demonstration submittals. (65 FR at 20406–20407.) In that notice, we also described in detail the modeling requirements for an attainment demonstration as well as the additional analyses that may be considered when the deterministic approach, as described in EPA guidance, does not show attainment. (65 FR at 20407–20408.) In our April 3, 2001, **Federal Register** document, EPA details the statistical and modeling data presented in the states' attainment demonstration, as well as additional graphical and statistical data the states have provided to support the validity of the ozone modeling results and the adequacy of the adopted ozone attainment strategies. See, 66 FR at 17649–17652.[1] The states conclude, and EPA concurs, that the revised modeling system performs at an acceptable level because it satisfactorily reproduces peak ozone concentrations relative to the monitored peak ozone concentrations. The modeling system adequately simulates the observed magnitude and spatial and temporal patterns of monitored ozone concentrations. Furthermore, the modeling results accurately differentiate between days with marginal ozone levels and days with elevated ozone concentrations. Therefore, based on the revised modeling and WOE results presented by the states which confirm the adequacy of the adopted emission control strategy, EPA is approving the states' attainment demonstrations. EPA also finds that the appropriate attainment date is November 15, 2004, based on the attainment demonstrations. EPA received adverse comments regarding the states' modeled attainment demonstrations, but no comments were received on the WOE analysis by the states and EPA. These comments and our responses are summarized elsewhere in this notice.

IX. What Are the Criteria for an Attainment Date Extension?

EPA's policy regarding an extension of the ozone attainment date for the St. Louis area was set forth in EPA's initial notice of proposed rulemaking dated March 18, 1999 (64 FR 13384, 13387–13388). On July 16, 1998, a guidance memorandum entitled ''Extension of Attainment Dates for Downwind Transport Areas'' was issued by EPA and was published in a notice of interpretation on March 25, 1999 (64 FR 12221). In it, EPA set forth its interpretation of the Act regarding the extension of attainment dates for ozone nonattainment areas that have been classified as moderate or serious for the 1-hour ozone standard, and which are downwind of areas that have interfered with the moderate and serious nonattainment areas's attainment of the ozone standard by dates prescribed in the Act. EPA stated that it will consider extending the attainment date for an area or a state that:

1. Has been identified as a downwind area affected by transport from either an upwind area in the same state with a later attainment date or an upwind area in another state that significantly contributes to downwind ozone nonattainment;

2. Has submitted an approvable attainment demonstration with any necessary, adopted local measures, and with an attainment date that shows it will attain the 1-hour standard no later than the date that the emission reductions are expected from upwind areas in the final NO_X SIP call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind emission reductions;

3. Has adopted all applicable local measures required under the area's current ozone classification and any additional emission control measures demonstrated to be necessary to achieve attainment, assuming the emission reductions occur as required in the upwind areas; and

4. Has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

[1] On page 17651, the narrative incorrectly cites the ozone standard at 124 parts per *million* and predicted ozone design values at or below 124 parts per *million*. The correct values are 124 parts per *billion*.

X. How Did Illinois and Missouri Satisfy the Criteria for an Extension?

The states of Illinois and Missouri satisfied the criteria for an attainment date extension as follows:

1. The states have cited EPA's NO_X SIP call modeling and analyses documented in the Ozone Transport Assessment Group (OTAG) process to demonstrate that the St. Louis area is affected by an upwind area in another state that significantly contributes to ozone nonattainment in the St. Louis area. In our April 17, 2000, notice (65 FR 20404), we explained how the OTAG modeling and the attainment demonstration for the St. Louis area submitted by Missouri and Illinois show the impacts of transport, specifically noting that the sources in Kentucky make significant contributions to the St. Louis nonattainment area. On this basis, EPA finds that this criterion of the attainment date extension policy has been met;

2. As explained elsewhere in this notice, the states of Illinois and Missouri have submitted approvable attainment demonstrations. Furthermore, all of the control measures needed for attainment have been adopted. These measures include all moderate area requirements under section 182(b) and the statewide NO_X controls for EGUs discussed in this final rule and the April 3, 2001, proposal (66 FR 17647, 17653–17655).

3. Both Missouri and Illinois have adopted local measures required by the Act for the area's current classification as a moderate nonattainment area. (See, 66 FR 17647, 17654 (April 3, 2001) and references cited therein for a discussion of the local measures adopted by the states.) Elsewhere in today's notice, EPA explains why we are approving an exemption from the NO_X RACT requirements for the state of Illinois which exempts Illinois from the obligation to adopt the NO_X RACT requirements for the metro-East portion of the St. Louis area; and

4. With respect to implementation of all adopted measures as expeditiously as practicable but no later than the time upwind controls are expected, Missouri and Illinois have demonstrated that all control measures would be in place by the start of the ozone season in 2003, which at the time of our April 17, 2000, proposal was the compliance date for the NO_X SIP call. The attainment demonstration also relies on reductions from the NO_X SIP call to reduce transported ozone precursors, and the source compliance date for the NO_X SIP call has been extended to May 31, 2004.[2] Since the local measures adopted by Illinois and Missouri necessary for attainment will be implemented no later than 2003, the states have shown that this element of the attainment date extension policy has been met.

Therefore, EPA concludes that, consistent with the attainment date extension policy, the states have met the criteria for an attainment date extension. EPA received comments regarding the basis for and application of the extension policy in granting the St. Louis ozone nonattainment area an attainment date extension. Those comments and our responses to comments are summarized elsewhere in this document.

XI. What Action Is EPA Taking Regarding the Determination of Nonattainment as of November 15, 1996, and Reclassification Published on March 19, 2001?

On January 29, 2001, the United States District Court for the District of Columbia ordered EPA to make a determination, no later than March 12, 2001, as to whether the St. Louis nonattainment area attained the requisite 1-hour ozone standard. (*Sierra Club* v. *Browner*, cited previously.) On March 8, 2001, EPA informed the Court of the actions that EPA intended to take in response to its Order. The Court, in a limited review to determine whether EPA's planned course of action would contravene the Court's Order, indicated that EPA, by signing a determination by March 12, 2001, and publishing the required document by March 20, would comply with the Court's Order. The Court noted that it lacked jurisdiction to assess the propriety of the remainder of EPA's planned course of action. (Memorandum Opinion and Order, March 9, 2001.)

On March 19, 2001, EPA published its ''Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois; Final Rule'' (66 FR 15578). The effective date of that Determination and Reclassification was initially set at May 18, 2001. However, in a separate notice the same day (66 FR 15591), EPA proposed to delay the effective date of the Determination and Reclassification until June 29, 2001. On May 16, 2001 (66 FR 27036), EPA finalized the modification of the effective date of the Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area, extending it until June 29, 2001.

In our April 3, 2001, **Federal Register** document (66 FR 17647), EPA proposed to withdraw the Notice of Determination of Nonattainment and Reclassification if we approved an attainment date extension prior to the effective date of the Determination of Nonattainment. EPA did not receive any adverse comments relating to our proposal to withdraw the nonattainment determination and consequent reclassification in the event we granted an attainment date extension. Since we are today granting an extension until November 15, 2004, for attainment of the 1-hour ozone standard, EPA's obligation to determine attainment is thereby shifted into the future. As a result, we are hereby withdrawing the published nonattainment determination and the consequent reclassification, which have not yet gone into effect.

Therefore, the St. Louis area retains its classification as a moderate ozone nonattainment area. (As stated previously, comments on our proposal to extend the attainment date are addressed below.) In today's action, we are withdrawing the Notice of Nonattainment Determination and Reclassification, prior to their becoming effective.

XII. What Comments Were Received on the Proposals Covered by This Final Action, and on the March 25, 1999, Publication of the Attainment Date Extension Policy, and How Has EPA Responded to Those?

EPA received comments from the public on the Notices and Supplemental Notices of Proposed Rulemaking published on March 19, 1999; April 17, 2000; April 3, 2001; and April 19, 2001, for the proposed approval of the St. Louis area's ozone attainment demonstration and attainment date extension. EPA received adverse comments from the Sierra Club and the Missouri Coalition for the Environment (on the March 18, 1999; April 17, 2000; and April 3, 2001, proposals). EPA also received comments in support of the proposals from IEPA and MDNR, and from various industries and industrial associations.

EPA sets forth below in this section our responses to adverse comments received on these notices which are relevant to this rulemaking. EPA also received comments relating to the proposal to determine that the St. Louis area did not attain the ozone standard by November 15, 1996. These comments relate primarily to the necessity of making the nonattainment

[2] EPA is extending the attainment date for the St. Louis area to November 15, 2004, to allow the reductions in transport to occur before attainment is required. This does not affect the states' obligations to implement the remaining local measures as expeditiously as practicable.

determinations, the appropriate attainment date if the area were reclassified, and the SIP submission date for the area. In EPA's March 19, 2001, final rule, EPA responded to adverse comments on the proposed determination that the area did not attain the standard by November 15, 1996, and proposed reclassification to serious nonattainment. (66 FR 15578, 15585–15588.)

Finally, some of the comments received in Docket A–98–47 on EPA's notice regarding ''Extension of Attainment Dates for Downwind Transport Areas'' 64 FR 12221 (March 25, 1999), are relevant to this rulemaking. EPA incorporates its responses to those comments, set forth in 66 FR 586, 66 FR 634, 66 FR 666 (January 3, 2001), and 66 FR 26913 (May 15, 2001), insofar as herein relevant.

The following discussion summarizes and responds to all adverse comments:

I. Comments Received in Response to the March 18, 1999 (64 FR 13384), Proposal

Comment 1. The commenter argued that, although EPA's March 18, 1999, notice of proposed rulemaking proposed to find that the St. Louis area has failed to attain the 1-hour ozone standard by November 15, 1996, EPA had already made this ''determination'' in various correspondence with the state of Missouri, in public, and in various rulemakings. The commenter contends that, pursuant to section 181(b) of the Act, the St. Louis area had thus already been reclassified by operation of law to a serious ozone nonattainment area, and that EPA's notice should report that this reclassification has already occurred. The commenter alleges that EPA's duty under section 181(b), as EPA acknowledged in reclassifying the Phoenix area, ''involves little more than a rote review of available ambient air quality data,'' and the commenter argues that EPA has no flexibility to deviate from its duty.

In addition, the commenter argued that EPA's proposal was procedurally flawed because EPA lacked authority to propose a finding (of nonattainment as of November 15, 1996) based on the occurrence of subsequent events (additional state submissions to qualify for an attainment date extension).

Response to Comment 1. EPA has already addressed these arguments raised in this comment in EPA's Cross Motion for Summary Judgment on Remedy Under Count I, filed in *Sierra Club* v. *Browner*, cited previously, filed April 28, 1999 (see, e.g., pages 13–20), and EPA's reply brief in support of its Cross Motion, filed June 16, 1999. Copies of these documents have been placed in the docket and EPA incorporates them herein by reference. For the reasons stated therein, EPA disagrees with the commenter's contention that EPA had previously issued a determination of failure to attain within the meaning of section 182(b) of the Act. In addition, the Court in that case agreed with EPA, and concluded in its opinion that EPA had not already made the determination of failure to attain, and as a consequence that the area had not, as Sierra Club contended, been reclassified by operation of law. See Court Opinion dated January 29, 2001, *Sierra Club* v. *Browner* 130 F. Supp. 2d 78, 89–94. A copy of the Court's opinion has been placed in the docket, and EPA incorporates it herein by reference. In its order of January 29, 2001, as modified on February 15, 2001, the Court thus ordered EPA to issue a determination as part of a final notice-and-comment rulemaking process. On March 19, 2001, EPA published its final determination and notice, with a delayed effective date (66 FR 15578). That notice is being withdrawn before it becomes effective, and thus EPA has not issued any final, effective determination of nonattainment requiring the area to be reclassified as a matter of law.

With respect to the contention that EPA's actions are at odds with its observations in the Phoenix rulemaking, EPA addressed this issue in its Cross-Motion for Summary Judgment, which explained the complexity of the finding required for evaluating attainment, as well as the need for notice-and-comment rulemaking. The comment made in the Phoenix rulemaking, when put in context, indicates that the statement was aimed at distinguishing between air quality findings and efforts to adopt controls. The Phoenix rulemaking itself, which, unlike the St. Louis area, did not involve issues of transported pollution, reveals that the determination was controversial, and involved issues of whether data from special purpose monitors should be included in the data considered in making the determination. EPA believes that its position in the St. Louis area is consistent with the requirements of the statute and its notice-and-comment rulemakings in other areas where EPA's attainment date extension policy has applied.

With respect to the comment that EPA's proposal was procedurally flawed, EPA notes that the only proposed action set forth by EPA in the March 18, 1999, notice was its proposal to find that the St. Louis area had not attained the standard by November 15, 1996, and to determine that if the finding was finalized, the area would be reclassified from a moderate to a serious ozone nonattainment area by operation of law (64 FR 13384). In terms of the timing of the final action on the proposed determination, EPA also proposed to take final action only after the states had an opportunity to qualify for an attainment date extension. However, EPA was not proposing to modify a finding based on subsequent events, but merely providing notice that if Missouri and Illinois made certain additional submissions and EPA determined, through subsequent rulemaking, to grant an attainment date extension, the nonattainment determination would not be finalized and the area would not be reclassified (64 FR 13384–13385). EPA explained that this result follows because once an attainment date is extended for an area, the area is no longer subject to reclassification under section 181(b)(2) for failure to attain by the original attainment date (64 FR at 13388). A more detailed discussion of EPA's proposals and final action relating to the attainment date extension and its interplay with the requirements of section 181(b) is contained elsewhere in this final rule, and in EPA's response to comments on the relevant proposals.

Comment 2. The commenter alleges that EPA has no authority to grant an attainment date extension, but even assuming it does have such authority, EPA's exercise here is improper and unlawful. The commenter contends that in order to grant an extension, the states must have applied for and obtained an extension prior to May 15, 1997. EPA is relying on the mere possibility of an extension to relieve it of its statutory duty pursuant to section 181(b)(2). Once EPA has made a finding, EPA has no authority to refuse to ''finalize'' it.

Response to Comment 2. EPA has now acted, pursuant to Court Order, to make a determination under section 181(b), but this determination is not yet effective, and thus EPA still has an opportunity to grant an attainment date extension for reasons discussed at length elsewhere in these responses to comments. Moreover, EPA is not relying on the mere possibility of an attainment date extension in order to withdraw the determination of nonattainment before it becomes effective. Rather, EPA is now granting the extension based on actual, complete submissions from Missouri and Illinois demonstrating that the St. Louis area fully qualifies for the attainment date extension, a conclusion EPA has reached in a final rulemaking action after conducting notice and comment rulemaking. Once this

extension is granted, the area's attainment date shifts to the future, and EPA no longer has an extant obligation to make a determination of attainment. For reasons set forth elsewhere in these responses to comments, EPA believes that it is not too late to grant an attainment date extension, and that EPA has ample authority and basis on which to do so.

Comment 3. The commenter argues that EPA has no authority to extend attainment deadlines, except in circumstances set forth in section 181(a)(5). EPA is prohibited from granting attainment date extensions by sections 172(a)(2)(D) and 182(i). Sections 184, 110, and 126, although they address interstate pollution transport, do not provide for attainment date extensions.

Response to Comment 3. EPA has authority to grant a transport-based attainment date extension. The basis for this policy is set forth in EPA's Guidance, and EPA has responded to the issues raised by this comment in its rulemaking actions on Washington D.C., 66 FR 586, 591–600, January 3, 2001; Greater Connecticut, 66 FR 6314, January 3, 2001; Springfield, Massachusetts, 66 FR 666, January 3, 2001; and Beaumont, Texas, 66 FR 26913, 26916–26927, May 15, 2001. EPA incorporates these responses by reference.

Comment 4. The commenter asserts that EPA does not explain how a policy adopted in 1998 has relevance to events that occurred in 1996 and 1997. EPA's duty to determine whether the area had attained the standard was to have been made no later than May 15, 1997. There is no authority for EPA's ''retroactive'' application of EPA's extension policy'' (citing *Bowen* v. *Georgetown University Hospital*, 488 U.S. 204 (1988)) and no statutory basis for that policy.

Response to Comment 4. The statutory basis for EPA's attainment date extension policy has been explained elsewhere in responses to comments in this notice and in EPA's other rulemaking actions on Washington D.C., 66 FR 586, January 3, 2001; Greater Connecticut, 66 FR 6314, January 3, 2001; Springfield, Massachusetts, 66 FR 666, January 3, 2001; and Beaumont, Texas, 66 FR 26913, 26924–26 May 15, 2001.

EPA disagrees with the commenter's contention that EPA's application of the attainment date extension policy constitutes unauthorized retroactive rulemaking. As EPA has explained in the Beaumont, Texas, rulemaking, the information and analyses necessary to formulate EPA's attainment date extension policy did not become available until 1998. At that time, EPA had not yet acted to make a determination that would trigger a reclassification of the St. Louis area. EPA, before taking action on the determination, found itself in a position to consider whether the area qualified for an attainment date extension based on being affected by transport. In contexts such as these, EPA, in taking rulemaking action, is entitled to take into account the best possible information at the time it takes action to implement Congressional intent. Consistent with its interpretation of the Act, EPA also proposed to apply its policy to other moderate nonattainment areas with 1996 attainment dates, including Louisville, Kentucky, and Beaumont, Texas. The final attainment date extension for Beaumont was issued on May 15, 2001 (66 FR 26913). EPA's actions with respect to these moderate areas should not be deemed ''retroactive,'' but rather as the application of a current policy contemporaneous with taking action to perform its duties under the Act. The fact that EPA's actions occurred after the statutory deadline does not render them ''retroactive.'' EPA is not precluded from considering the best available information and existing legal interpretations when it acts after a statutory deadline has passed. To conclude otherwise would frustrate Congressional intent and deny the St. Louis area and its citizens the benefit of EPA's and the states' improved understanding of the role of transport in causing nonattainment problems, on the grounds that they must remain in the state of ignorance that existed at the time of the original deadline. As EPA has noted, its attainment date extension policy and an adequate understanding of ozone transport were not developed until after the attainment date for moderate areas had passed. Nevertheless, EPA believes that to deny eligibility for the attainment date extension to moderate areas affected by transport because the policy was not available earlier would thwart Congressional intent and cause an injustice. Moreover, EPA believes that applying the policy to these areas is consistent with the Congressional approach of applying other types of attainment date extensions after an area has been unable to reach attainment. See, for example, Section 181(a)(5).

Under Section 181(a)(5), EPA may determine that an area has qualified for an extension after it has failed to attain in its attainment year. Section 181(a)(5) provides that EPA may grant an extension of one year [''the Extension Year''] if in relevant part, ''no more than 1 exceedance of the [ozone standard] has occurred in the area in the year preceding the Extension Year.'' This procedure presumes that the area did not attain in its attainment year, and requires a review of data to determine the number of exceedances in the original attainment year prior to the granting of the extension. Thus, Congress knew and approved of a system for granting extensions *after* an area had already failed to attain according to its original schedule. EPA's granting of an extension to the St. Louis area after its original date for attainment has lapsed is therefore consistent with Congressional intent and the statutory scheme that Congress established in the Act.

In addition, while the deadline in section 181(b)(2) sets a deadline for EPA to make a determination, failure to observe the deadline does not preclude EPA from extending the attainment date prior to making the determination. The six-month deadline, though intended to spur the Agency to act, does not place a limit on the Agency's authority to consider information and developments critical to a sound decision. See *Brock* v. *Pierce County*, 476 U.S. 253, 260 (1986) (''We would be most reluctant to conclude that every failure of an agency to observe a procedural requirement voids subsequent agency action, especially when important public rights are at stake. When, as here, there are less drastic remedies available for failure to meet a statutory deadline, courts should not assume that Congress intended the agency to lose its power to act.'' (Footnote omitted.) Indeed, to take the contrary view, as the commenter advocates, and require EPA to disregard relevant data about the impact of transport, data that reveal the causes of an area's nonattainment problems and affect the equitable allocation of the burden of controls, would be an absurd result. It would be contrary to the public interest to require EPA to take final action in a matter that affects the public interest while compelling it to disregard the best available information. EPA is engaged in applying its attainment date extension policy in areas throughout the country. It would be contrary to Congressional intent and a disservice to the citizens of St. Louis to deny them the benefits of a policy that became available after EPA missed a procedural deadline, but before EPA performs its statutory duty under the Act. The *Bowen* case cited by commenters is inapposite. It involved a retroactive application of cost limitations to hospital expenditures that had occurred

in the past. By contrast, EPA's action is remedial and curative, and affects future controls.

Comment 5. The commenter stated that the notice indicated that documents relevant to the nonattainment determination and reclassification proposal were available for public inspection at the EPA regional offices for Region V in Chicago and Region VII in Kansas City. The commenter stated that EPA did not indicate whether the documents supported its belief that the area might qualify for an attainment date extension. The commenter further stated that EPA was ''concealing the documents'' in areas ''at great distances'' from the St. Louis area, in violation of its ''duty to encourage public participation in the administration of'' the Act.

Response to Comment 5. As indicated above in the response to Comment 1, the March 18, 1999, notice did not propose to extend the attainment date for the St. Louis area, so EPA did not include a detailed discussion of documents showing how the area qualified for an attainment date extension. In fact, EPA stated its belief that Missouri and Illinois would make subsequent submissions in an effort to qualify for an attainment date extension, and EPA would conduct subsequent rulemaking on those submissions. (The subsequent proposals published April 17, 2000, and April 3, 2001, which are described elsewhere in this action, and the final action which is the subject of today's action, contain detailed discussion of the states' submissions and the documents on which EPA is relying to determine that the area qualifies for an attainment date extension.)

With respect to the comment that EPA violated a ''duty'' to provide adequate opportunity for public participation by stating in its notice that the documents would be available for public inspection at the EPA regional offices, the proposal specified the locations of the documents comprising the record for the rulemaking and names, addresses, and telephone numbers of individuals to be contacted for additional information. This procedure is consistent with the process which EPA ordinarily uses to make information available concerning a proposed rulemaking of this kind. EPA clearly did not ''conceal'' any of the documents relevant to the rulemaking. The commenter and any other group or individual had the opportunity to inspect the record or to contact EPA to request copies of documents comprising the record, and to request other information relating to the proposed determination and reclassification. The commenter did not inspect the record or request additional information or documents during the comment period.

In the March 18, 1999, proposal, EPA set out the factual basis for its proposed finding that the St. Louis area did not attain the ozone standard, including tables summarizing the data on which the proposal was based (64 FR 13386–13387). As discussed previously, EPA also stated that subsequent state submissions relating to the attainment date extension (which were not the subject of the March 18, 1999, proposal) would be, and in fact were, subject to future notice-and-comment rulemaking. The commenter did not raise issues concerning the locations of the docket for EPA's initial proposal (and supplemental proposal) of the attainment date extension (the April 17, 2000, and April 3, 2001 proposals). EPA met its obligation to make the basis for its proposed determination and supporting documentation available for public comment during the comment period.

Comment 6. The commenter stated that EPA had not shown how the St. Louis area qualifies for an attainment date extension. Specifically, the commenter stated that the proposal did not show how the area is affected by transport, that Missouri had not submitted an approvable attainment demonstration, and that Missouri had not adopted all local measures required under the area's current moderate classification. The commenter also stated that EPA had failed to explain the basis for the statement in its notice that Illinois and Missouri would be able to meet the local measure requirement for NO_X controls (''NO_X RACT'') by meeting EPA's NO_X SIP call.

Response to Comment 6. As discussed in response to Comments 1 and 5 above, the March 18, 1999, proposal did not include a proposal to extend the attainment date, and therefore did not include a detailed analysis of how the St. Louis area qualifies for an attainment date extension. EPA stated that the analysis would be the subject of future rulemaking after the states made additional submissions to support their requests for an attainment date extension. The March 18, 1999, proposal listed the submissions which the states had to make for EPA to determine whether the area qualified for an attainment date extension (64 FR at 13388). The analysis of the subsequent submissions addressing these elements is contained in the April 17, 2000, proposal on the attainment demonstration and attainment date extension (65 FR 20404) and in the April 3, 2001, supplemental proposal (66 FR 17647). EPA's conclusions with respect to the state submissions and how they meet all of the elements of the attainment date extension policy are detailed in the proposals and in this final rulemaking.

With respect to the comment concerning the local NO_X RACT requirements, EPA did not propose to find, in the March 18, 1999, proposal on the attainment determination, that the states had met the local NO_X control requirements, and therefore was not obligated to analyze whether the states' anticipated NO_X SIP call rules would meet the local control requirements. In the March 1999 notice, EPA merely stated its belief that the Missouri and Illinois NO_X SIP call rules, when adopted, could also be used to satisfy the NO_X RACT requirements. (As a result of the Court's ruling in *Michigan* v. *EPA*, 215 F. 3d 663 (D. C. Cir. 2000), Missouri is not currently subject to the NO_X SIP call.) This issue was the subject of subsequent rulemaking after the states made their submissions for the attainment demonstration and attainment date extension. As noted in the April 17, 2000, proposal, Missouri subsequently adopted and EPA approved specific local NO_X RACT measures for the Missouri portion of the St. Louis area, and Illinois requested a waiver of the requirement to impose additional local NO_X controls in the Illinois portion of the St. Louis area (65 FR at 20417). EPA is taking final action to approve a portion of the Illinois waiver request in connection with today's final rulemaking. Therefore, neither state is relying on regional NO_X SIP call controls to meet the local NO_X RACT requirements for the St. Louis area.

Comment 7. The commenter stated that EPA's proposal was ''an attempt to extend the submittal deadlines'' for the required local measures.

Response to Comment 7. The commenter did not explain how EPA's proposal would have the effect of extending the statutory deadlines for submittal of local measures. However, EPA's proposal to determine that the area did not attain the standard and its notice that the area might be able to qualify for an attainment date extension had no relationship to the independent obligations of the states to make submissions required for the St. Louis area by the specified statutory deadlines. Nor did the proposal affect the consequences, if any applied, to the states (sanctions for failure to submit under section 179 of the Act) and to EPA (obligation to promulgate Federal plans under section 110(c) of the Act). Section 179 provides certain sanctions for state planning failures in connection

with SIP submissions required under the Act, including sanctions for failure to make a required submission. Section 110(c) requires EPA to promulgate a plan, under specified circumstances, where a state has failed to make a required submission or EPA has disapproved a required submission. If, for example, a state fails to make a required submittal by a statutory deadline and EPA issues a finding of failure to submit, then, after 18 months, the state would be subject to mandatory sanctions until the state makes the required submittal and EPA finds the submittal complete. In this example, within two years of the finding, EPA is obligated to promulgate a Federal plan and that obligation can only be lifted by the state submitting and EPA approving the plan. EPA has made various findings of planning failures relating to the St. Louis area, based on state failures to submit by the applicable statutory deadlines SIP revisions required by section 182(b). EPA imposed section 179(b)(2) offset sanctions in the Missouri portion of the St. Louis area for failure of the state to submit NO_X RACT controls by the statutory deadline. (The sanction was subsequently lifted when the state corrected the deficiency.) These actions have not been dependent on the attainment date for the area.

The proposal did not purport to establish plan submission deadlines, but merely noted that the states might be able to qualify for an extension of their attainment date and needed to make certain plan submissions in order to do so. No other statutory dates were implicated by the notice. The extension of an attainment date does not impact an area's obligation to meet other applicable statutory deadlines. In any event, had EPA's determination of nonattainment and reclassification become effective, the attainment date for the area would have been November 15, 2004 (see, 66 FR 15578, 15584–15585, March 19, 2001) which is the same date as established in this rulemaking for attainment of the ozone standard. Also, as noted previously, an attainment date extension cannot be given unless the area has submitted, and EPA has approved, all local measures applicable to the area under its current classification.

Comment 8. The commenter asserts that EPA's application of its attainment date extension policy rewards Missouri for its recalcitrance. EPA has no authority to allow Missouri to delay implementation of its local measures.

Response to Comment 8. EPA is not rewarding Missouri for its recalcitrance, nor has it ''invented a policy'' that ''gets [Missouri] off the hook.'' The goal of the attainment date extension policy is to give effect to Congressional intent and to equitably distribute the burdens of controlling pollution according to the source of that pollution. The responsibility for controlling local pollution remains firmly with the states where that pollution originates; but EPA's policy seeks to implement Congressional intent to redress the unfairness of requiring a local area to pay the costs of curing problems created by pollution transported from outside the state. EPA's policy still requires Missouri and Illinois to implement local measures as expeditiously as practicable. As EPA and the states have demonstrated in qualifying for the policy, implementing those local measures sooner would not bring about attainment. The basis for the timing of the requirement for implementation of local measures is further set forth in EPA's responses to comments in the Washington, D.C., Greater Connecticut, Springfield, Massachusetts, and Beaumont, Texas, rulemakings.

II. Comments Received in Response to the April 17, 2000 (65 FR 20404), proposal

Comment 1. The commenter contends that EPA lacks statutory authority to approve the request for an attainment date extension based on EPA's attainment date extension policy. The commenter asserts that the current classification for the St. Louis area is ''serious'' and not ''moderate.'' The commenter contends that EPA has already determined that the area failed to attain the ozone standard within the meaning of section 181(b)(2)(A) of the Act, and that, therefore, the St. Louis area was reclassified by operation of law, despite EPA's refusal to acknowledge this. The commenter incorporates by reference its arguments as to the legality of the attainment date extension policy contained in its briefs in *Sierra Club* v. *Whitman,* No. 98–02733, as well as those submitted in response to EPA's March 18, 1999, notice (64 FR 13384) and in response to EPA's proposal to approve Missouri's 15% ROPP, set forth at 65 FR 8083 (February 17, 2000).

The commenter also argued that EPA's proposal to extend the attainment date for the St. Louis area is ''contingent'' on approval of the Missouri 15% ROPP, and stated that it was also incorporating by reference its comments on the February 17, 2000, proposed approval of the 15% Plan (65 FR 8083). In summary, Sierra Club's comments on the proposed approval of the 15% ROPP were: (1) That EPA should review the ROPP plan against the serious area requirements of section 182(c) of the Act; (2) that EPA failed to give notice of its statutory authority to approve a plan which relies on reductions occurring after November 15, 1996; (3) that EPA lacks authority to approve a plan relying on reductions after 1996; (4) that EPA lacks authority to approve a plan which does not contain contingency measures; (5) that EPA was engaging in unauthorized retroactive rulemaking in approving a plan relying on 15% ROPP reductions after 1996; (6) that the Missouri 15% ROPP improperly fails to account for growth in emissions after 1996; and (7) that EPA should have used actual rather than projected 1996 emissions in determining the required reductions.

Response to Comment 1. EPA has responded to the contentions regarding the legality of EPA's attainment date extension policy in its responses to comments on the March 18, 1999, proposed rulemaking. As to the assertion that the classification of the St. Louis area is ''serious'' and not ''moderate,'' EPA also has responded to the attainment date in its response to Comment 1 on the March 18, 1999, proposal. EPA and the Court agree that EPA, prior to the Court-ordered rulemaking published March 19, 2001, had issued no final rulemaking determining that the St. Louis area had not attained the standard by November 1996. Therefore, the St. Louis area was not reclassified to ''serious.'' Moreover, since EPA is today issuing a final attainment date extension and in a separate final rulemaking withdrawing its March 19, 2001, determination prior to that determination taking effect, the St. Louis area remains classified as a moderate area. EPA incorporates by reference its responses to the comments submitted on the March 18, 1999, rulemaking, and those contained in its briefs in *Sierra Club* v. *Browner.* EPA also incorporates its Response to Comments on the February 17, 2000, proposal on the Missouri 15% ROPP, published in its final rule of May 18, 2000 (65 FR 31485, 31485–31487). With respect to the contention that EPA's action is inconsistent with earlier reclassifications of Dallas-Fort Worth, Texas, and Santa Barbara, California, these rulemakings occurred prior to the issuance of EPA's attainment date extension policy, and therefore do not undermine EPA's application of its policy to the St. Louis area.

With respect to its incorporation by reference of the comments on the 15% ROPP, EPA fully responded to all of the Sierra Club comments on the proposed approval when it took final action to approve the 15% ROPP, and

incorporates those responses here (65 FR 31485, May 18, 2000). Sierra Club petitioned for review of EPA's approval, primarily arguing that the Plan improperly failed to consider growth after 1996, and that it improperly failed to use actual 1996 emissions to calculate the required 15% reduction. EPA responded to the issues raised by Sierra Club in its brief. (Copies of the briefs are included in the docket for this rulemaking.) EPA also identified the issues which Sierra Club had waived in the petition for review. Sierra Club's petition for review was denied by the Court of Appeals for the 8th Circuit (*Sierra Club* v. *Environmental Protection Agency* (No. 00–2744), decided June 8, 2001). The issues raised by the commenter regarding the 15% Plan approval are not reopened for consideration by virtue of the commenter's incorporation of them in connection with the current rulemaking. Moreover, the comment that the Missouri 15% Plan was deficient because it lacked contingency measures (which Sierra Club waived in its 8th Circuit brief) is also no longer relevant because, as explained elsewhere, EPA is approving Missouri's contingency measures SIP in this final rulemaking.

Comment 2. The commenter argued that the St. Louis area has already been reclassified to serious nonattainment by operation of law, so that the ''required components'' of the attainment demonstration are those in section 182(c) of the Act, rather than the section 182(b) requirements suggested in EPA's proposal. The commenter stated that, because Missouri's Plan does not address the serious area requirements, the attainment demonstration must be disapproved.

Response to Comment 2. The argument that the St. Louis area has already been reclassified by operation of law was cited previously in our response to Comment 1 on the March 18, 1999, proposal and Comment 1 on the April 17, 2000, proposal. In *Sierra Club* v. *Browner, Sierra Club* requested that the Court find that a determination of nonattainment had already been made, and order EPA to publish the determination *nunc pro tunc* as of May 15, 1997. (See also EPA's Cross Motion on Summary Judgement and Reply, and EPA's Opposition to Plaintiff's Motion for Summary Judgement on Count I.) In its January 29, 2001, decision, the Court held that ''EPA has not yet issued the formal determination that section 7511(b)(2)(A) requires.'' (130 F. Supp. 2d at 92.) In addition, in rejecting Sierra Club's request for retroactive relief, the Court determined that granting Sierra Club's request ''would effectively create an injustice with regard to the state'' and the St. Louis nonattainment area, in part because it would carry with it the potential to ''expose the State of Missouri to a variety of sanctions for failing to comply promptly and adequately.'' (130 F. Supp. 2d at 94.) Therefore, EPA properly used the applicable requirements in section 182(b) to evaluate the states' attainment demonstration.

In addition, although EPA issued a determination and reclassification notice published March 19, 2001, which, if it had become effective, would have resulted in reclassification of the area to serious nonattainment, that determination did not and will not become effective, and is being withdrawn in today's action. For reasons explained in detail elsewhere in this final rule, the St. Louis area retains its current moderate classification, and the requirements of section 182(b) of the Act apply.

In any event, with respect to the Act requirements for the modeling to be used in an attainment demonstration, there is no significant difference between the requirements of section 182(b) and 182(c) as applied to the St. Louis area. Section 182(c)(2)(A) states that an attainment demonstration for serious areas must be based on photochemical grid modeling or other modeling determined by EPA to be equivalent. Although this modeling is not generally required for moderate area attainment demonstrations, it is required for ''multi-State ozone nonattainment areas'' (i.e., any single nonattainment area comprising more than one state) under section 182(j)(1)(B). Therefore, the St. Louis area was subject to the same modeling requirement as serious areas. In any event, the attainment demonstration for the area, as described elsewhere, used photochemical grid modeling, or the equivalent.

Comment 3. The commenter questioned EPA's authority to propose approval of ''Missouri's attainment demonstration'' contingent on submission of corrections to the attainment demonstration submitted initially in November 1999, which was the subject of the April 2000 proposal. The commenter argues that EPA's ''failure'' to identify a legal basis for its authority ''violates'' section 307(d)(3)(C) of the Act and section 553 of the Administrative Procedure Act. The commenter states that the only authority for this ''unusual procedure'' would be the conditional approval procedure in section 110(k)(4) of the Act, which would not, according to its argument, be available as an appropriate action on an attainment demonstration.

Response to Comment 3. As a preliminary matter, EPA notes that this rulemaking is not subject to the provisions of section 307(d), because it does not involve any of the categories of actions described in section 307(d)(1) to which the requirements of section 307(d) are applicable. See generally, *Missouri Limestone Producers Association* v. *EPA,* 165 F.3d 619, 621 (8th Cir. 1999). In addition, contrary to the commenter's assertion, there is nothing unusual about EPA's contingent proposal, and EPA routinely proposes action with final action contingent on additional state submissions. (See, e.g., the discussion of additional measures which had been necessary for approval of the Washington, D.C., attainment demonstration in 66 FR 586, 587–88 (January 3, 2001) for a recent example of EPA's use of the same procedure.) EPA also routinely undertakes rulemaking on SIP submittals through ''parallel processing,'' in which it proposes action based on draft or proposed state submissions, and takes final action after the state has adopted, in final form, plan elements which are substantially similar to the draft on which EPA's proposal is based. (See generally, *Connecticut Fund for the Environment, Inc.* v. *EPA,* 672 F.2d 998, 1005 (2d Cir. 1982) for a discussion of EPA's parallel processing policy, which is now codified in 40 CFR part 51, appendix V, paragraph 2.3.1.) EPA stated in the proposal that it would not take final action to approve the attainment demonstration until the states made the submissions called for in the proposal (and in fact would disapprove the attainment demonstration if the submissions were not made). (65 FR 20404). After the states made the necessary submissions, EPA published a supplemental proposal to allow additional public comment on the subsequent submissions (66 FR 17647, April 3, 2001) to satisfy the public participation requirements of section 553 of the Administrative Procedure Act. Therefore, the commenter's premise that this was an ''unusual procedure'' requiring some express statutory authorization is incorrect. EPA's rulemaking on the attainment demonstration is fully consistent with the requirements of section 553 of the APA, and Sierra Club has not shown any inconsistencies with those requirements.

With respect to the commenter's statement that the conditional approval provision in section 110(k)(4) of the Act does not apply to actions on attainment demonstrations, EPA disagrees with the

comment. However, the comment is not relevant to this action, because EPA is fully approving the attainment demonstration under section 110(k)(3), and is not relying on its authority in section 110(k)(4).

Comment 4. The commenter argues that EPA ''lacks the authority to engage in retroactive rulemaking.'' The commenter states that the attainment date extension policy was not proposed until 1998, two years after the St. Louis area's attainment date, and that even if the attainment date extension policy were legal, EPA ''could only extend a deadline that had not yet passed.'' The commenter characterizes EPA's extension of the attainment deadline for the St. Louis area as ''retroactive rulemaking.'' Citing *Bowen* v. *Georgetown University Hospital,* 488 U.S. 204 (1988), the commenter contends that the Act does not authorize retroactive rulemaking, and that absent an express grant of such authority, none will be implied.

Response to Comment 4. EPA has responded to this argument in its response to Comment 4 on the March 18, 1999, notice of proposed rulemaking.

Comment 5. The commenter argues that EPA's April 2000 proposal ''unlawfully extends'' the date by which the measures called for by section 182(b) are required to be adopted and implemented ''by the state of Missouri.'' The commenter states that transported pollution does not affect the ability of states to adopt necessary local measures, and that ''an extension of these implementation requirements is not justified.''

Response to Comment 5. With respect to the extension of other statutory deadlines for submittal of required measures, EPA addressed this issue generally in response to Comment 7 on the March 18, 1999, proposal. EPA explained in that response that an extension of an attainment date does not extend other statutory deadlines. Although the commenter does not identify the ''implementation requirements'' to which it refers, EPA notes that, as explained in the April 17, 2000, proposal, one of the criteria for granting an extension of the attainment date under the attainment date extension policy is that states must show that they will implement all adopted local measures as expeditiously as practicable, ''but no later than'' the date by which the upwind reductions are expected to be achieved (65 FR at 20409). As EPA further explained in the April 3, 2001, supplemental proposal, all of the local measures relied on by Missouri and Illinois for the attainment demonstration are to be implemented no later than 2003 (66 FR at 17654). EPA catalogued the various moderate area control measures which the states had already adopted and implemented in the March 18, 1999, proposal (64 FR at 13389). The remainder of the local controls relied on in the attainment demonstration (for example, the regional NO_X controls for Missouri and Illinois sources) are to be implemented by 2003. The new attainment date for the St. Louis area is November 15, 2004, which, as explained in more detail elsewhere in this final rulemaking and in the April 3, 2001, proposal (66 FR 17647), is based on the implementation date for the upwind controls necessary for attainment in the area. The implementation date for the local controls is not dependent on the implementation date for upwind controls (except that, as stated above, it cannot be any later than the upwind controls implementation date). Therefore, the extension of the attainment date does not, as argued by the commenter, extend the date for submission and implementation of local controls. (See also EPA's responses to comments in the Washington D.C., Greater Connecticut, Springfield, Massachusetts, and Beaumont, Texas, rulemakings.)

III. Comments Received in Response to the April 3, 2001 (66 FR 17647), Proposal

Comment 1. The commenter reiterates its belief that the proposal to extend the attainment date would violate the Act, as pointed out in the briefs filed in *Sierra Club* v. *Browner*, supra.

Response to Comment 1. EPA has responded to this comment elsewhere in its Responses to Comments in this notice, and incorporates by reference those responses.

Comment 2. The commenter argues that, if EPA had the authority to extend attainment dates by eight years, this proposal would violate the Act, because it constitutes unlawful retroactive rulemaking.

Response to Comment 2. EPA has responded to the commenter's allegation of illegal retroactive rulemaking elsewhere in its Responses to Comments. (Response 4 to March 18, 1999, proposal and Response 4 to April 17, 2000, proposal.)

Comment 3. The commenter stated that since final action on the proposal is dependent on submission by the states of additional documents, this deprives the public of the opportunity to comment on documents relevant to the final rulemaking.

Response to Comment 3. In the April 3, 2001, proposal, EPA stated that Missouri had made all final submissions necessary for EPA to take final action on the matters proposed in the April 3 notice. EPA also stated that Illinois had submitted proposed revisions to the attainment demonstration and MVEB, and was expected to submit its final revisions in the near future (66 FR 17647). The Illinois submissions were processed through the ''parallel processing'' procedure described in response to Comment 3 on the April 17, 2000, proposal. The draft Illinois submissions were made available to the public for review during the public comment period, and the public had an opportunity to comment on the adequacy of those documents and on the adequacy of EPA's review of those documents (66 FR 17647). The documents were also made available to the public by IEPA during its adoption process. The final documents submitted by the state were substantially similar to the draft documents on which EPA based its proposal. Therefore, the public had an adequate opportunity to comment on the documents relevant to EPA's proposal and relevant to this final rulemaking.

Comment 4. A commenter asserts that testing an elaborate airshed model on only three brief episodes cannot demonstrate that the model is of general validity. The commenter asserts that a valid model must predict ambient concentrations accurately in a much greater variety of weather conditions.

Response to Comment 4. The commenter challenges the validity of the conclusion drawn from the modeling analyses on grounds that they are premised on an application that is too limited. At the outset, it should be noted that the model, the Urban Airshed Model, used by Illinois and Missouri has been successfully applied in many urban areas for many high ozone days and over a wide range of meteorological conditions. The model has undergone continual development for nearly 30 years. EPA and its peer reviewers have judged the modeling approach feasible, practical, and technically sound. As described in the ''User's Guide to the Variable-Grid Urban Airshed Model (UAM-V),'' Systems Applications International, Inc., SYSAPP–96–95/27r, October 1996, numerous evaluations have been performed and documented in scientific literature. The version applied for the St. Louis attainment demonstration includes further enhancements that allow for more refined analyses.

With respect to the number of episodes modeled, EPA issued, and

Missouri and Illinois correctly applied, the ''Guideline For Regulatory Application Of The Urban Airshed Model,'' EPA–450/4–91–013, July 1991. The July 1991 guidance specifically addresses the selection of high ozone episodes for the purposes of ozone modeling and the ozone attainment demonstration. This guidance does not require the states to model *all* high ozone episode days. In it, EPA recommends that states model a minimum of three episode days covering multiple meteorological conditions/regimes. This can be achieved by modeling three meteorological regimes with each scenario consisting of one ''primary'' episode day, or modeling two meteorological regimes with one scenario consisting of two ''primary'' episode days and a second consisting of one primary episode day. States were given the flexibility to consider other episode selection techniques considering a host of factors including the availability of air quality, emissions, and meteorological data bases, the availability of supporting regional modeling analyses, the number of monitors recording daily maximums greater than the NAAQS, the number of hours for which ozone in excess of the NAAQS is observed, the frequency with which the observed meteorological conditions correspond with observed exceedances, and model performance. In a recent instance, EPA has approved other states' reliance on modeling two episodes in performing the attainment demonstrations. ''Proposed Rule: Approval and Promulgation of Air Quality Implementation Plans,'' 64 FR 70460, 70470 (December 16, 1999) (Washington, DC).

The states' final attainment demonstrations were based on two episodes consisting of six ''primary'' episode days covering two meteorological regimes, *i.e.,* stagnant conditions and transport conditions. As such, the states have met and in some aspects exceeded our minimum recommendations.

Comment 5. A commenter notes that the model did not work in one of the three episodes modeled, and that the states and EPA simply discarded the episode in which they admitted the model was inadequate. The commenter believes that a process that simply discards and ignores the tests that prove that the model does not work is not a scientific process.

Response to Comment 5. As noted in our April 17, 2000, proposed rule (65 FR 20412), the states originally selected a third high ozone episode, June 27–29, 1996, for ozone modeling. Subsequent modeling and monitoring data analyses showed that the modeling results for this episode failed to comply with the model's statistical validation criteria specified in our July 1991 guidelines (see ''Guideline For Regulatory Application Of the Urban Airshed Model,'' July 1991, page 57). Illinois and Missouri conducted many analyses to determine the causes of the poor model performance for the June 1996 episode in an attempt to correct possible problems with model input data. No acceptable input data changes could be found which would allow the modeling system to perform within acceptable parameters (consistent with model performance parameters specified in EPA's July 1991 guidance, EPA–450/4–91–013).

The July 1991 guidance clearly anticipates that the modeling results for some episodes will not ultimately pass recommended statistical tests and should be rejected or replaced by an alternate episode. This was the basis for the rejection of the July 1996 episode. Since the states were already modeling an acceptable number of high ozone days and since the modeled days represented the highest ozone days available for consideration under several meteorological regimes,[3] the states did not replace the rejected July 1996 episode with an alternate episode. As noted in the April 17, 2000, proposed rule, EPA accepted this approach.

Contrary to the assertion of the commenter, rejection of modeling for episodes with ''poor'' modeling results is not poor science. As explained in the response to the previous comment, episode selection is based upon many factors. The goal of the modeling process is to identify and focus on those episodes for which the most robust data bases exist and for which the model appropriately simulates historical observed ozone concentrations and patterns with emphasis on the meteorological conditions that most commonly result in elevated levels of ozone. This ensures that the final control strategies will be effective for the most frequently occurring ozone episodic conditions.

Comment 6. A commenter notes that for the two nondiscarded episodes modeled, the model altogether failed to predict realistic concentrations. For the July 1995 episode, the model very substantially underpredicted the recorded ozone concentrations on three of the five days selected. Therefore, the results summarized in our proposed rulemaking demonstrate the inadequacy of the model as a predictive tool.

Response to Comment 6. As noted in Table 3 of the April 17, 2000, proposed rule (65 FR 20404, 20413), for two days (July 13 and 14, 1995), the 1996 base case modeled peak ozone concentrations (131 and 125 parts per billion (ppb), respectively) were lower than the peak monitored ozone concentrations (154 and 139 ppb, respectively) for the ozone modeling domain. The modeling system did underestimate the peak ozone concentrations for these days. Nonetheless, the modeling statistics for these days and for the modeled ozone episodes as a whole met our minimum ozone model performance statistical criteria. (See 66 FR 17647, 17650, April 3, 2001.) Therefore, the results for these days are acceptable for purposes of the ozone attainment demonstration. The modeling system performed acceptably in reproducing the spatial and temporal patterns observed in the monitored ozone concentrations.

In addition, it is noted that, as discussed in our April 17, 2000, proposed rule (65 FR 20404, 20414), the states also relied on WOE determinations to further support the attainment demonstration. The states considered the relative impacts of emission changes on the predicted peak ozone concentrations (referred to as a relative reduction factor approach) to show that future, post-2003 ozone design values should be below the 1–hour ozone standard. Considering the ozone modeling results and ozone design values for the 1995 through 1997 period, the states determined that the projected ozone design values for the attainment year (2003 in the analyses addressed in the April 17, 2000, proposed rule) should be substantially lower than the 1-hour ozone standard. See Table 4 of the April 17, 2000, proposed rule. The states and EPA have concluded that the use of a relative reduction factor approach is less sensitive to problems caused by modeling uncertainty than are the deterministic and statistical approaches. The WOE determinations support the adequacy of the ozone attainment demonstration.

As also discussed in the April 17, 2000, proposal, trends analyses also support the results of the modeled ozone attainment demonstration (65 FR 20404, 20415). The trends data and the anticipated reduction in regional NO_X emissions resulting from EPA's NO_X SIP

[3] The July 16–19 and June 27–29, 1996, episodes occurred under conditions controlled by a high pressure system centered over Pennsylvania, with similar wind directions in the St. Louis area. The July 10–14, 1995, episode was more influenced by stagnation conditions with relatively low wind speeds and variable wind directions.

call both support the conclusion of the adequacy of the states' ozone attainment demonstration as modified in the April 3, 2001, supplement (66 FR 17647) to that proposed rule.

Comment 7. A commenter contends that, even if the model had predicted reasonably accurate ozone concentrations for the 1991 and 1995 episodes selected and had not failed altogether with respect to the 1996 episode, and even if reasonable accuracy in two episodes could demonstrate the validity of the model, these results would not be persuasive in this instance. The commenter believes that emissions have significantly changed inside and outside of the nonattainment area since 1995 and weather patterns have changed, in part because of global warming. As such, the commenter asserts that weather patterns of six and ten years ago have little, if any, relevance to what is experienced today or will be experienced in 2004. The commenter suggests that more recent episodes should have been analyzed and believes that such work could easily be developed, but has not been publicized. The commenter contends that approval of the modeled attainment demonstration on the basis of older evidence is irrational.

Response to Comment 7. The commenter has provided no emission or meteorological data to support the contention that the area's emissions have increased since 1995, that emissions will increase in the future, or that new, unmodeled meteorological conditions are (or will be) responsible for ozone standard exceedances inadequately addressed by the states' ozone attainment demonstration. However, the states have provided specific evidence to the contrary in their attainment demonstrations.

With respect to emissions increases, the states are required to and have correctly applied acceptable techniques to account for changes in emissions that are expected to occur between the dates of the modeled episodes and the attainment date. These expected changes include both emissions increases and decreases. Emissions data provided by both states show in their respective attainment demonstrations a significant downward trend in the nonattainment area NO_X emissions from approximately 600 TPD in 1998 to a projected level of approximately 480 TPD in 2003. The data also show a significant downward trend in the nonattainment area VOC emissions from approximately 440 TPD in 1995 to a projected level of approximately 360 TPD in 2003. In addition, as addressed in the April 3, 2001, proposed rule supplement, the nonattainment area VOC and NO_X emissions will continue to decline between 2003 and 2004. On the other hand, statewide NO_X emissions in Illinois, Indiana, Kentucky, Missouri, Ohio, and Tennessee have, in total, trended significantly upward between 1990 and 1998. Therefore, local emissions are trending downward while regional NO_X emissions (emissions from outside the nonattainment area) have trended upward (at least through 1998). However, EPA's NO_X SIP call and other upwind control measures are designed to reverse the regional NO_X emissions trend.

In any case, the objective of the attainment demonstration is to identify and implement a control strategy that demonstrates through air quality modeling and other analyses that the ozone NAAQS will be attained. The states have applied acceptable methods to estimate what future emissions would be in the absence of a control strategy, performed numerous sensitivity analyses to determine the most effective ozone precursor reduction strategies, and ultimately identified and adopted a set of control measures which demonstrates attainment for the meteorological conditions that most frequently result in elevated ozone levels in the St. Louis area.

With respect to meteorology, the commenter implies that attainment may not have been demonstrated had the states considered more recent episodes or accounted for alleged changes in weather patterns. The actual data provided by both states indicate otherwise.

The states analyzed the meteorological conditions associated with ozone over a 21-year period of time (1977–1998) and compared the number of ozone conducive days in the St. Louis area to the number of days on which the NAAQS was exceeded. During that time, the number of ozone conducive days has oscillated, but remained between 21 and 47 per year. During the same time frame, the number of exceedance days has been trending steadily downward. The number of days exceeding the standard has gone from a peak of over 50 days in 1978 to less than 5 in 1998. While no two ozone episodes are identical, the data strongly suggest that weather patterns that result in elevated ozone in the St. Louis area are cyclical but consistent over time. This evidence, in combination with the states' evaluation of the recurrence intervals of the episodes relied upon for the attainment demonstration, contradicts the commenter's assertions. In short, the historical data indicate that elevated ozone levels in the St. Louis area occur under a limited set of weather patterns. As noted elsewhere, they include elements of stagnant and transport conditions. The episodes relied upon for the attainment demonstration encompass these patterns. There is no indication that weather patterns will change significantly in the near future, and the commenter has not provided any such information. Therefore, the attainment demonstration modeling has utilized the meteorological conditions which most frequently occur in the St. Louis area.

Comment 8. The commenter contends that the emissions data put into the model do not adequately reflect the conditions the St. Louis area will experience in 2004. For example, they do not include the ''huge'' increase in NO_X emissions, and significant increases in VOC emissions, which are expected to be brought about by three new or expanded cement plants on the southern boundary of the nonattainment area. Further, the input data do not include the substantial ''vehicle miles travelled'' increase anticipated to result from the development of a regional shopping mall in St. Louis County. The commenter contends that none of these increases were included in the estimates furnished by the East-West Gateway Coordinating Council for the purpose of this modeling.

Response to Comment 8. As alluded to in an earlier response, the states are required to and have applied the appropriate techniques to estimate and account for potential emissions changes in an area. These techniques are necessarily based on sector-based growth indicators (positive *and* negative), *i.e.,* sector-specific economic factors, because the states have no way of predicting specific changes which take place within the emissions inventory.

Specific projects, such as those cited by the commenter, are addressed through mechanisms other than the attainment demonstration. Both the states of Illinois and Missouri implement Prevention of Significant Deterioration and NSR permitting regulations. These regulations address the air quality impacts of new sources and existing expanding sources both inside and outside the boundaries of the nonattainment area. They are designed to prevent new source construction or existing source expansion which would adversely affect an area's ability to attain or maintain a national standard.

The anticipated cement plants referenced by the commenters are potential sources in Missouri which are currently in the process of completing construction permit applications under

state permitting requirements. None of the cement plant construction and modification projects have received the preconstruction permits necessary for construction and operation. Before any such projects can be permitted, a permit applicant would be required, among other requirements, to identify specific emission increases and decreases associated with a particular project and demonstrate that the project would not ''[i]nterfere with the attainment or maintenance of ambient air quality standards'' (10 CSR 10–6.010(6)(A)). (Missouri regulation 10 CSR 10–6.060, Missouri's construction permitting rule, is part of the Federally approved SIP.) EPA believes that it is the function of the state's air permitting rules, rather than the attainment demonstration, to ensure that specific potential new sources do not create emissions which would interfere with attainment of the ozone standard.

In addition, the states, in partnership with the local MPO, are required to implement the states' transportation conformity regulations to ensure that transportation-related ozone precursor emissions ''conform'' to levels consistent with their respective SIPs. Specific increases and decreases associated with transportation-related projects are evaluated through the process. The fact that an attainment demonstration does not specifically account for possible new sources of ozone precursors does not render the attainment demonstration deficient.

Comment 9. The commenter incorporates by reference the comments made with respect to the rulemaking of January 3, 2001, reported at 66 FR 585.

Response to Comment 9. EPA incorporates by reference the responses made with respect to the January 3, 2001, rulemaking cited by commenters, as well as the Beaumont, Texas, rulemaking (66 FR 26193, May 15, 2001).

XIII. What Action Is EPA Taking Regarding the State Submittals Addressed by This Final Rule?

EPA is taking the following actions on the state submittals address by this final rule:

1. EPA is approving the ground-level 1-hour ozone attainment demonstration SIPs for the St. Louis, Missouri, and Illinois ozone nonattainment area.

2. EPA is granting the states' requests for extension, and extending the date for attaining the 1-hour ozone standard to November 15, 2004, while retaining the area's current classification as a moderate ozone nonattainment area.

3. EPA is approving the 2004 on-road MVEBs for both Illinois and Missouri. Both Illinois and Missouri have committed to revise their 2004 MVEBs based on MOBILE6 within two years of its release. No conformity determinations will be made during the second year following the release of MOBILE6 unless and until the MVEBs have been recalculated using MOBILE6 and approved by EPA.

4. EPA is finding that the Contingency Measures identified by both Illinois and Missouri are adequate to meet the requirements of the Act. We are also approving the contingency measures SIP submitted by Missouri in October 1997, as supplemented by a letter dated April 5, 2001.

5. EPA finds that the St. Louis area meets the requirements pertaining to RACM under the Act.

6. EPA is granting an exemption to the state of Illinois from the NO_X RACT requirements of the Act and disapproving the request for an exemption from the NO_X NSR and certain NO_X conformity requirements for Madison, Monroe, and St. Clair Counties.

7. EPA is withdrawing our March 19, 2001, rulemaking action entitled ''Determination of Nonattainment as of November 15, 1996, and Reclassification.''

For the reasons stated above in the ''Background'' portion of this notice, EPA is making this final action immediately effective.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action, in relevant part, merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because, in relevant part, it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal**

Register. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Ozone, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 14, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.726 is amended by adding paragraph (bb) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(bb) Approval—Revisions to the SIP submitted by Illinois on November 15, 1999; February 10, 2000; April 13, 2001; and April 30, 2001. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Act for the Metro-East St. Louis area. The revision establishes an attainment date of November 15, 2004, for the St. Louis moderate ozone nonattainment area. This revision establishes MVEBs for 2004 of 26.62 TPD of VOC and 35.52 TPD of NO_X to be used in transportation conformity in the Metro-East St. Louis area until revised budgets pursuant to MOBILE6 are submitted and found adequate. In the revision, Illinois commits to revise its VOC and NO_X transportation conformity budgets within two years of the release of MOBILE6. No conformity determinations will be made during the second year following the release of MOBILE6 unless and until the MVEBs have been recalculated using MOBILE6 and found adequate by EPA. EPA is granting a waiver for the Metro East St. Louis area to the state of Illinois from the NO_X RACT requirements of the Act and disapproving the request for a waiver from the NO_X NSR and NO_X general conformity requirements. EPA is finding that the Contingency Measures identified by Illinois are adequate to meet the requirements of the Act. EPA finds that the Illinois SIP meets the requirements pertaining to RACM under the Act for the Metro-East St. Louis area.

Subpart AA—Missouri

4. In § 52.1320(e) the table is amended under Chapter 6 by adding two entries at the end of the table as follows:

§ 52.1320 Identification of Plan.

* * * * *

(e) * * *

EPA-APPROVED MISSOURI NONREGUALTORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	* *	*	*	* *
Contingency Plan including letter of April 5, 2001.	St. Louis	10/6/97, 4/5/01	June 26, 2001.	
Ozone 1-Hour Standard Attainment Demonstration Plan for November 2004 including 2004 On-Road Motor Vehicle Emissions Budgets.	St. Louis	11/10/99, 11/2/00, 2/28/01, 3/7/01.	June 26, 2001.	

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Section 107 Attainment Status Designations

2. The amendments to §§ 81.314 and 81.326 which published on March 19, 2001 (66 FR 15578) and were revised on May 16, 2001 (66 FR 27036) to become effective on June 29, 2001, are withdrawn.

[FR Doc. 01–15842 Filed 6–25–01; 8:45 am]

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Federal Register

Tuesday,
June 26, 2001

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Revisions to Requirements Concerning Airplane Operating Limitations and the Content of Airplane Flight Manuals for Transport Category Airplanes; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration.

14 CFR Part 25

[Docket No. FAA–2000–8511; Amendment No. 25–105]

RIN 2120–AH32

Revisions to Requirements Concerning Airplane Operating Limitations and the Content of Airplane Flight Manuals for Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Aviation Administration amends the airworthiness standards for transport category airplanes concerning airplane operating limitations and the content of airplane flight manuals. Issuing this amendment eliminates regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

EFFECTIVE DATE: July 26, 2001.

ADDRESSES: You may review the public docket concerning this amendment at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. Also, you may review the public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Don Stimson, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone: 425-227–1129; fax: 425–227–1320, e-mail: don.stimson@faa.gov.

SUPPLEMENTARY INFORMATION:

How Can I Get a Copy of Rulemaking Documents?

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

How Does This Amendment Affect the Small Business Regulatory Enforcement Fairness Act?

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at our site, http://www.gov/avr/arm/sbrefa.htm, or e-mail us at 9–AWA–SBREFA@faa.gov.

Background

What Are the Relevant Airworthiness Standards in the United States?

In the United States, Title 14 of the Code of Federal Regulations (14 CFR), part 25, contains the airworthiness standards for type certification of transport category airplanes. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, Joint Aviation Requirements (JAR)-25 contains the airworthiness standards for type certification of transport category airplanes. The Joint Aviation Authorities (JAA) of Europe developed these standards, which are based on part 25, to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is ''Harmonization'' and How Did It Start?

Although part 25 and JAR–25 are similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial added costs to manufacturers and operators. These added costs, however, often do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also preserve the necessary high level of safety, the FAA and the JAA began an effort in 1988 to ''harmonize'' their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified many significant regulatory differences (SRD) between the wording of part 25 and JAR–25. Both the FAA and the JAA consider ''harmonization'' of the two sets of standards a high priority.

What Is ARAC and What Role Does It Play in Harmonization?

After beginning the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make noticeable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for helping to resolve harmonization issues, and, in 1992, the

FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations on the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties on potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC sets up working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA invites participation in working groups from interested members of the public who have knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language ''recommended'' by ARAC. If the FAA accepts an ARAC recommendation, the agency continues with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain many regulatory differences between part 25 and JAR–25. The current harmonization process is costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to finish the harmonization program as quickly as possible to relieve the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry [including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)] proposed an accelerated process to reach harmonization.

What Is the ''Fast Track Harmonization Program''?

In light of a general agreement among the affected industries and authorities to speed up the harmonization program, the FAA and JAA in March 1999 agreed on a method to achieve these goals. This method, titled ''The Fast Track Harmonization Program,'' seeks to speed up the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but nearly 80 additional standards for part 25 airplanes.

The FAA launched the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all the standards needing harmonization into three categories:

Category 1: Envelope—For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be ''enveloped'' into the other standard. Occasionally, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may call for each authority revising its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or near complete—For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize—For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be ''enveloped'' (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first Notice of Proposed Rulemaking (NPRM) published under this program, ''Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes'' (65 FR 36978, June 12, 2000).

How Does This Amendment Relate to ''Fast Track''?

This amendment results from recommendations that ARAC submitted to the FAA under the FAA's Fast Track Harmonization Program. This rulemaking project has been identified as a Category 1 item.

Discussion of the Amendment

What Did the FAA Propose?

On December 4, 2000 (65 FR 79294, December 18, 2000), the FAA issued an NPRM that proposed to amend certain airworthiness standards for transport category airplanes. The proposed amendment involved changes to six different standards related to airplane operating limitations and the content of airplane flight manuals.

How Is This Preamble Organized?

The six specific changes are discussed individually below. Although the reader may find some of the text repetitious, we consider it appropriate for the public to be aware of the background and full reasoning behind each change to these standards.

Change 1: New Section 25.1516, ''Other Speed Limitations''

What Is the Underlying Safety Issue Addressed by the Current Standards?

There may be speeds above which it is unsafe to:

- Extend devices such as ram air turbines, thrust reversers, and landing lights into the air stream; or
- Open windows or doors.

The current standards require that speed limitations must be established and made available to the flightcrew to ensure safe operation.

What Are the Current 14 CFR and JAR Standards?

The FAA has traditionally relied on § 25.1503 (''Airspeed limitations: general'') and § 25.1533 (''Additional operating limitations'') as the means to fulfill the underlying safety issue. Those two sections mandate speed limitations. Additionally, the text of paragraph (a) of § 25.1501 [at amendment 25–42 (43 FR 2323, January 16, 1978)] states:

''§ 25.1501 Operating Limitations and Information—General.

(a) Each operating limitation specified in § § 25.1503 through 25.1533, and other limitations and information necessary for safe operation, must be established.''

There are parallel sections in JAR–25. However, JAR–25 also contains an additional paragraph, JAR 25X1516 (Change 15, October 2000), that states:

''JAR 25X1516 Other speed limitations.

Any other limitation associated with speed must be established. (See also ACJ 25X1516.)''

What Are the Differences in the Standards and What Do Those Differences Result In?

Part 25 has not had an explicit requirement to mandate that any other limitation associated with speed be established; JAR–25 does contain an explicit requirement. There are no practical differences, however, resulting from the difference in the standards. Currently, applicants seeking certification of transport airplane designs by both the FAA and JAA must establish all limitations associated with speed.

What, If Any, Are the Differences in the Means of Compliance?

There are no differences between part 25 and JAR–25 in the means of compliance with the addressed requirement.

What Action Did the FAA Propose?

In the NPRM, the FAA proposed to harmonize the regulations by revising part 25 to adopt the text of JAR 25X1516 as new § 25.1516. The proposed action would codify current FAA policy, as wells as achieve harmonization with the JAR.

How Does the Revised Standard Address the Underlying Safety Issue?

The revised standard continues to address the underlying safety issue by requiring that airspeed limitations be established for devices that can open into the air stream in flight. With the addition of this standard, part 25 will have one explicit requirement for applicants to establish all limitations associated with speed.

What Is the Effect of the Revised Standard on the Current Regulations?

The revised standard maintains the same level, and may increase the level, of safety provided by the current regulations.

What Is the Effect of the Revised Standard on Current Industry Practice?

The revised standard maintains the same level of safety relative to current industry practice.

What Other Options Were Considered and Why Were They Not Selected?

The FAA has not considered another option. We consider that revising the standard, as discussed above, is the most appropriate way to fulfill harmonization goals while, at the same time, maintaining safety and not affecting current industry design practices.

Who Will Be Affected by the Revised Standard?

Manufacturers and operators of transport category airplanes could be affected by the revised standard. However, because the revised standard does not result in any practical changes in requirements or practice, there will not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA's Advisory Circular (AC) 25.1581–1, ''Airplane Flight Manual,'' dated July 14, 1997, provides adequate guidance related to the issue addressed by this revised standard. Additionally, the JAA recently issued a parallel Advisory Material Joint (AMJ) 25.1581, which provides guidance that is similar to, and harmonized with, that contained in AC 25.1581–1. In light of this, we do not consider that any additional advisory material is needed relevant to the revised standard.

Change 2: Section 25.1527, ''Maximum Operating Altitude''

What Is the Underlying Safety Issue Addressed by the Current Standards?

Operation of a transport category airplane outside of the environmental envelope established for the airplane may be unsafe. Therefore, the boundaries of that envelope must be established to ensure safe operations. Section 25.1527 requires that such boundaries be established.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1527 [original amendment, Doc. No. 5066, (29 FR 18291, December 24, 1964)] is:

''§ 25.1527 Maximum operating altitude.

The maximum altitude up to which operation is allowed, as limited by flight, structural, powerplant, functional, or equipment characteristics, must be established.''

The current text of JAR 25.1527 (Change 15, October 2000) is:

''JAR 25.1527 Ambient air temperature and operating altitude.

The extremes of the ambient air temperature and operating altitude for which operation is allowed, as limited by flight, structural, powerplant, functional, or equipment characteristics, must be established.''

What Are the Differences in the Standards and What Do Those Differences Result In?

The current § 25.1527 requires that only the maximum altitude portion of the environmental envelope be established. However, the parallel JAR 25.1527 requires that both the *minimum* and *maximum* altitudes as well as the ambient temperatures be established. Although this difference exists, the FAA's policy of applying § 25.1527 is consistent with JAR 25.1527. This is evidenced by the compliance method described in FAA AC 25.1581–1. However, for a regulatory basis, the FAA has traditionally relied on the general provisions of § 25.1501(a) that require ''* * * other limitations and information necessary for safe operation must be established.''

What, If Any, Are the Differences in the Means of Compliance?

Although the explicit current standards are different, there are no differences in their application or means of compliance. As stated previously, the FAA has relied on both the general provisions of § 25.1501(a) and the guidance in AC 25.1581–1 to apply the requirement.

What Action Did the FAA Propose?

In the NPRM, the FAA proposed to harmonize the regulations by revising § 25.1527 to adopt the language currently in JAR 25.1527. The proposed action would codify current FAA policy and practice, as well as achieve harmonization with the JAR.

How Does the Revised Standard Address the Underlying Safety Issue?

The revised standard continues to address the underlying safety issue in the same manner. It simply codifies current FAA policy and application of the regulations.

What Is the Effect of the Revised Standard on the Current Regulations?

The revised standard maintains the same level, and may increase the level, of safety provided by the current regulations.

What Is the Effect of the Revised Standard on Current Industry Practice?

The revised standard maintains the same level of safety relative to current industry practice.

What Other Options Were Considered and Why Were They Not Selected?

The FAA has not considered another option. We find that revising the standard, as discussed above, is the most appropriate way to fulfill harmonization goals while, at the same time, maintaining safety and not affecting current industry design practices.

Who Will Be Affected by the Revised Standard?

Manufacturers and operators of transport category airplanes could be affected by the revised standard. However, because the revised standard does not result in any practical changes in requirements or practice, there will not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA considers that the guidance contained in AC 25.1581–1 is adequate as it pertains to the revised standard. Additionally, the JAA recently issued a parallel AMJ 25.1581, which provides guidance that is similar to, and harmonized with, that contained in AC 25.1581–1. In light of this, we do not consider that any additional advisory material is needed relevant to the revised standard.

Change 3: § 25.1583(c), ''Operating Limitations/Weight and Loading Distribution''

What Is the Underlying Safety Issue Addressed by the Current Standards?

Section 25.1583 (as well as JAR 25.1583) currently requires that certain operating limitations established under §§ 25.1501 through 25.1533 be provided in the Airplane Flight Manual (AFM). To ensure safe operation, any limitations established for the airplane must be made known to the flightcrew. This is accomplished through instrument markings, placards, and the information provided in the AFM.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1583(c) [amendment 25–72 (55 FR 29787, July 20, 1990)] is:

''§ 25.1583 Operating limitations.

* * * (c) Weight and loading distribution. The weight and center of gravity limits required by §§ 25.25 and 25.27 must be furnished in the Airplane Flight Manual. All of the following information must be presented either in the Airplane Flight Manual or in a separate weight and balance control and loading document which is incorporated by reference in the Airplane Flight Manual:

(1) The condition of the airplane and the items included in the empty weight as defined in accordance with § 25.29.

(2) Loading instructions necessary to ensure loading of the airplane within the weight and center of gravity limits, and to maintain the loading within these limits in flight.

(3) If certification for more than one center of gravity range is requested, the appropriate limitations, with regard to weight and loading procedures, for each separate center of gravity range.''

The current text of JAR 25.1583(c) (Change 15, October 2000) is:

''JAR 25.1583 Operating limitations.

* * * (c) Weight and loading distribution. The weight and centre of gravity limitations established under JAR 25.1519 must be furnished in the aeroplane Flight Manual. All the following information, including weight distribution limitations established under JAR 25.1519, must be presented either in the aeroplane Flight Manual or in a separate weight and balance control and loading document which is incorporated by reference in the aeroplane Flight Manual [see ACJ 25.1583(c)];

(1) The condition of the aeroplane and the items included in the empty weight as defined in accordance with JAR 25.29.

(2) Loading instructions necessary to ensure loading of the aeroplane within the weight and centre of gravity limits, and to maintain the loading within these limits in flight.

(3) If certification for more than one centre of gravity range is requested, the appropriate limitations, with regard to weight and loading procedures, for each separate centre of gravity range.''

What Are the Differences in the Standards and What Do Those Differences Result In?

There are no practical differences in the application of the current two standards. However, the references to other standards that appear in JAR 25.1583(c) are more exact than those that appear in § 25.1583(c). The standards referenced are:

Section number	Title of section*
25.23	Load distribution limits.
25.25	Weight limits.
25.27	Center of gravity limits.
25.1519	Weight, center of gravity, and weight distribution.

*The title of each section is the same in both part 25 and JAR–25.

JAR 25.1583(c) requires that the operating limitations established under JAR 25.1519 be provided in the AFM. JAR 25.1519 then requires that weight, center of gravity, and weight distribution limitations, ''including those established under *JAR 25.23 to JAR 25.27*,'' be established as operating limitations.

On the other hand, § 25.1583(c) of part 25 requires that the weight and center of gravity limitations required by *§§ 25.25 and 25.27* must be provided in the AFM. Like its counterpart JAR standard, § 25.1519 requires that weight, center of gravity, and weight distribution limitations established in *§§ 25.23 through 25.27* be established as operating limitations. However, instead of referencing § 25.1519, the requirements of the current § 25.1583(c) specifically refer to the weight and center of gravity limitations determined under §§ 25.25 and 25.27. This mistakenly excludes any operating limitations established under § 25.23.

What, If Any, Are the Differences in the Means of Compliance?

Although there are difference in the text of the current standards, there are no differences in their application or means of compliance. The FAA's policy of applying § 25.1583 is consistent with JAR 25.1583. The FAA has relied on the general provisions of § 25.1501(a) and the guidance material in AC 25.1581–1 to apply the same requirement.

What Action Did the FAA Propose?

In the NPRM, the FAA proposed to harmonize the regulations by revising § 25.1583(c) to include the same references that are currently in JAR 25.1583(c). The proposed action would codify current FAA policy, as well as achieve harmonization with the JAR.

How Does the Revised Standard Address the Underlying Safety Issue?

The revised standard continues to address the underlying safety issue in the same manner. It simply codifies current FAA policy and application of the regulations.

What Is the Effect of the Revised Standard on the Current Regulations?

The revised standard maintains the same level, and may increase the level, of safety provided by the current regulations.

What Is the Effect of the Revised Standard on Current Industry Practice?

The revised standard maintains the same level of safety relative to current industry practice.

What Other Options Were Considered and Why Were They Not Selected?

The FAA has not considered another option. We find that revising the standard, as discussed above, is the most appropriate way to fulfill harmonization goals while, at the same time, maintaining safety and not affecting current industry design practices.

Who Will Be Affected by the Revised Standard?

Manufacturers and operators of transport category airplanes could be affected by the revised standard. However, because the revised standard does not result in any practical changes in requirements or practice, there will not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA considers that the guidance contained in AC 25.1581–1 is adequate as it pertains to the revised standard. Additionally, the JAA recently issued a parallel AMJ 25.1581, that provides guidance similar to, and harmonized with, that contained in AC 25.1581–1. In light of this, we do not consider that any additional advisory material is needed relevant to the revised standard.

Change 4: Section 25.1583(f), ''Operating Limitations/Altitudes''

What Is the Underlying Safety Issue Addressed by the Current Standards?

As discussed previously, § 25.1583 (as well as JAR 25.1583) currently requires that certain operating limitations established under §§ 25.1501 through 25.1533 be provided in the AFM. To ensure safe operation, any limitations established for the airplane must be made known to the flightcrew. This is accomplished through instrument markings, placards, and the information provided in the AFM.

What are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1583(f) [amendment 25–72 (55 FR 29787, July 20, 1990)] is:

''§ 25.1583 Operating limitations.
* * * (f) Altitudes. The altitude established under § 25.1527.''

The current text of JAR 25.1583(f) (Change 15, October 2000) is:

''JAR 25.1583 Operating limitations.
* * * (f) Ambient air temperatures and operating altitudes. The extremes of the ambient air temperatures and operating altitudes established under JAR 25.1527 and an explanation of the limiting factors must be furnished.''

What Are the Differences in the Standards and What Do Those Differences Result In?

Consistent with § 25.1527 (refer to previous discussion), § 25.1583(f) requires that only the maximum altitude portion of the environmental envelope be furnished in the AFM. Consistent with JAR 25.1527, JAR 25.1583(f) requires that the limitations relative to both the *minimum* and *maximum* altitudes as well as ambient temperatures be furnished in the AFM.

Although the current standards are different, there are no differences in their application or means of compliance. The FAA's policy of applying § 25.1583(f) is consistent with JAR 25.1583(f). This is evidenced by the compliance method described in FAA AC 25.1581–1. However, the FAA has relied on the general provisions of §§ 25.1501(a) and 25.1581(a)(2) for its regulatory basis.

What, If Any, Are the Differences in the Means of Compliance?

Although the current standards are different, there are no differences in the means of compliance. As stated above, the FAA has relied on the general provisions of §§ 25.1501(a) and 25.1581(a)(2) along with the guidance material in AC 25.1581–1 to apply the same requirement.

What Action Did the FAA Propose?

In the NPRM, the FAA proposed to harmonize the regulations by revising § 25.1583(f) to adopt the language currently in JAR 25.1583(f). The proposed action would codify current FAA policy, as well as achieve harmonization with the JAR.

However, we did not propose including the current requirement in JAR 25.1583(f) for an explanation of the limiting factors. We find that the provision does not represent current practice, and is unnecessary for safety. The JAA is now planning to remove this requirement from JAR 25.1583(f). When this is done, harmonization of this standard will be complete.

How Does the Revised Standard Address the Underlying Safety Issue?

The revised standard continues to address the underlying safety issue in the same manner. It simply codifies current FAA policy and application of the regulations.

What Is the Effect of the Revised Standard on the Current Regulations?

The revised standard maintains the same level, and may increase the level, of safety provided by the current regulations.

What Is the Effect of the Revised Standard on Current Industry Practice?

The revised standard maintains the same level of safety relative to current industry practice.

What Other Options Were Considered and Why Were They Not Selected?

The FAA has not considered another option. We consider that revising the standard, as discussed above, is the most appropriate way to fulfill harmonization goals while, at the same time, maintaining safety and not affecting current industry design practices.

Who Will Be Affected by the Revised Standard?

Manufacturers and operators of transport category airplanes could be affected by the revised standard. However, because the revised standard does not result in any practical changes in requirements or practice, there will not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA considers that the guidance contained in AC 25.1581–1 is adequate as it pertains to the revised standard. Additionally, as noted previously, the JAA recently issued a parallel AMJ 25.1581 that provides guidance similar to, and harmonized with, that contained in AC 25.1581–1. In light of this, we do not consider that any additional advisory material is needed relevant to the revised standard.

Change 5: Section 25.1585, ''Operating Procedures''

What Is the Underlying Safety Issue Addressed by the Current Standards?

The primary purpose of the AFM is to provide an authoritative and approved source of information that is considered necessary for safely operating the airplane. Consistent with this purpose, the current § 25.1585 requires that the AFM must provide those operating procedures related to airworthiness and necessary for safe operation, including those procedures that may be unique to the specific type of airplane.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1585 [amendment 25–46, (43 FR 50598, October 30, 1978)] is:

''§ 25.1585 Operating procedures.
(a) Information and instructions regarding the peculiarities of normal operations (including starting and warming the engines, taxiing, operation of wing flaps, landing gear, and the automatic pilot) must be furnished, together with recommended procedures for—
(1) Engine failure (including minimum speeds, trim, operation of the remaining engines, and operation of flaps);
(2) Stopping the rotation of propellers in flight;
(3) Restarting turbine engines in flight (including the effects of altitude);
(4) Fire, decompression, and similar emergencies;
(5) Ditching [including the procedures based on the requirements of §§ 25.801, 25.807(d), 25.1411, and 25.1415(a) through (e)];
(6) Use of ice protection equipment;
(7) Use of fuel jettisoning equipment, including any operating precautions relevant to the use of the system;
(8) Operation in turbulence for turbine powered airplanes (including recommended turbulence penetration airspeeds, flight peculiarities, and special control instructions);

(9) Restoring a deployed thrust reverser intended for ground operation only to the forward thrust position in flight or continuing flight and landing with the thrust reverser in any position except forward thrust; and

(10) Disconnecting the battery from its charging source, if compliance is shown with § 25.1353(c)(6)(ii) or (c)(6)(iii).

(b) Information identifying each operating condition in which the fuel system independence prescribed in § 25.953 is necessary for safety must be furnished, together with instructions for placing the fuel system in a configuration used to show compliance with that section.

(c) The buffet onset envelopes, determined under § 25.251 must be furnished. The buffet onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different center of gravity locations are furnished.

(d) Information must be furnished which indicates that when the fuel quantity indicator reads ''zero'' in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(e) Information on the total quantity of usable fuel for each fuel tank must be furnished.''

The current text of JAR 25.1585 (Change 15, October 2000) is:

''JAR 25.1585 Operating procedures.

(a) Information and instructions regarding operating procedures must be furnished [see ACJ 25.1585(a)] in substantial accord with the categories described below—

(1) Emergency procedures which are concerned with foreseeable but unusual situations in which immediate and precise action by the crew, as detailed in the recommended procedures, may be expected substantially to reduce the risk of catastrophe.

(2) Other procedures peculiar to the particular type or model encountered in connection with routine operations including malfunction cases and failure conditions, involving the use of special systems and/or the alternative use of regular systems not considered as emergency procedures.

(b) Information or procedures not directly related to airworthiness or not under the control of the crew, must not be included, nor must any procedure which is accepted as basic airmanship.

(c) The buffet onset envelopes, determined under JAR 25.251 must be furnished. The buffet onset envelopes presented may reflect the centre of gravity at which the aeroplane is normally loaded during cruise if corrections for the effect of different centre of gravity locations are furnished. [See ACJ 25.1585(c).]

(d) Information must be furnished which indicates that when the fuel quantity indicator reads ''zero'' in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(e) Information on the total quantity of usable fuel for each fuel tank must be furnished.''

What Are the Differences in the Standards and What Do Those Differences Result In?

There are two differences between the standards:

First, the JAR standard does not include the text of current § 25.1585(b), which requires including information in the AFM concerning each operating condition in which the fuel system independence is necessary for safety, and instructions for placing the fuel system in a configuration used to show compliance with § 25.953 (''Fuel system independence''). Lack of such information may compromise the intent of the rules regarding fuel system independence. On this specific issue, the part 25 standard is ''more stringent'' than the JAR standard. (As discussed later, the JAA intends to revise JAR 25.1585 to add this requirement.)

Second, the text of JAR 25.1585(a) and (b) essentially ''updates'' the requirements of § 25.1585(a) to better reflect current policy, practices, and interpretations.

These differences do not necessarily entail any substantial differences in the technical requirements for including procedural information in the AFM. If differences in practice have arisen, they may have resulted more from differences in the means of compliance (and interpretation). Because the relevant guidance material—the FAA's AC 25.1581–1 and the JAA's new AMJ 25.1581—is now harmonized, any potential for such differences to arise in the future is minimized.

What, If Any, Are the Differences in the Means of Compliance?

As one means to demonstrate compliance with § 25.1585, applicants have relied on the guidance material related to the operating procedures section of the AFM that is contained in AC 25.1581–1. The JAA has provided relevant guidance in ACJs 25.1585(a), 25.1585(c), and 25.251(e). Although there are differences between the texts of the FAA AC and the JAA ACJs, both authorities agree that the FAA's AC represents a harmonized text. The JAA has recently revised its guidance and published a new AMJ 25.1581, which is harmonized with the FAA's AC 25.1581–1.

What Action Did the FAA Propose?

In the NPRM, the FAA proposed to revise § 25.1585 to incorporate the text of JAR 25.1585. The current text of § 25.1585(b) is retained, but is redesignated as § 25.1585(c). [The JAA intends to revise JAR 25.1585 to incorporate these same requirements, and will designate them as JAR 25.1585(c).] The incorporated text has been revised editorially to simplify it and make it better reflect current practices. (The JAA intends to make these same editorial revisions to JAR 25.1585.)

Although the text of the current § 25.1585(a) could be considered ''more stringent'' because it is more specific than the JAR as to the procedures that must be furnished in the AFM, it is considered outdated and not completely consistent with current practices. Additionally, some of the mandated procedures are no longer appropriate and other important procedures are not included. The revised standard provides a better description of what types of procedures are required to be in the AFM, the specifics of which will depend on the particular design developed by the applicant (i.e., a performance-based requirement).

How Does the Revised Standard Address the Underlying Safety Issue?

The revised standard continues to address the underlying safety issue in the same manner by requiring information and procedures necessary for airworthiness and operational safety to be furnished in the AFM.

What Is the Effect of the Revised Standard on the Current Regulations?

The revised standard maintains the same level, and may increase the level, of safety provided by the current regulations.

What Is the Effect of the Revised Standard on Current Industry Practice?

The revised standard maintains the same level of safety relative to current industry practice.

What Other Options Were Considered and Why Were They Not Selected?

The FAA did not consider any option other than harmonizing this item with the JAR. The JAR 25.1585(a) standard is considered to be closer to current practices than the manner in which § 25.1585(a) is actually applied. We find that revising the standard, as discussed above, is the most appropriate way to fulfill harmonization goals while, at the same time, maintaining safety and not affecting current industry design practices.

Who Will Be Affected by the Revised Standard?

Manufacturers and operators of transport category airplanes could be affected by the revised standard. However, because the revised standard does not result in any practical changes

in requirements or practice, there will not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA considers that the guidance contained in AC 25.1581–1 is adequate as it pertains to the revised standard. Additionally, as noted above, the JAA recently issued a parallel AMJ 25.1581 that provides guidance similar to, and harmonized with, that contained in AC 25.1581–1. In light of this, we do not consider that any additional advisory material is needed relevant to the revised standard.

Change 6: § 25.1587, ''Performance Information''

What Is the Underlying Safety Issue Addressed by the Current Standards?

The primary purpose of the AFM is to provide an authoritative and approved source of information considered necessary for safely operating the airplane. Consistent with this purpose, § 25.1587 requires that performance information related to airworthiness and necessary for safe operation must be provided in the AFM.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1587 [amendment 25–72 (55 FR 29787, July 20, 1990)] is:

''§ 25.1587 Performance information.

(a) Each Airplane Flight Manual must contain information to permit conversion of the indicated temperature to free air temperature if other than a free air temperature indicator is used to comply with the requirements of § 25.1303(a)(1).

(b) Each Airplane Flight Manual must contain the performance information computed under the applicable provisions of this part for the weights, altitudes, temperatures, wind components, and runway gradients, as applicable within the operational limits of the airplane, and must contain the following:

(1) The conditions under which the performance information was obtained, including the speeds associated with the performance information.

(2) V_S determined in accordance with § 25.103.

(3) The following performance information (determined by extrapolation and computed for the range of weights between the maximum landing and maximum takeoff weights):

(i) Climb in the landing configuration.

(ii) Climb in the approach configuration.

(iii) Landing distance.

(4) Procedures established under § 25.101(f), (g) and (h) that are related to the limitations and information required by § 25.1533 and by this paragraph. These procedures must be in the form of guidance material, including any relevant limitations or information.

(5) An explanation of significant or unusual flight or ground handling characteristics of the airplane.''

The current text of JAR 25.1587 (Change 15, October 2000) is:

''JAR 25.1587 Performance information.

''(a) Not required for JAR–25.

(b) Each aeroplane Flight Manual must contain the performance information computed under the applicable provisions of this JAR–25 (including JAR 25.115, 25.123, and 25.125 for the weights, altitudes, temperatures, wind components, and runway gradients, as applicable) within the operational limits of the aeroplane, and must contain the following:

(1) The condition of power, configuration, speeds and the procedures for handling the aeroplane and any system having a significant effect on performance upon which the performance graphs are based must be stated in each case. (See ACJ 25.1587(b)(1).)

(2) Not required for JAR–25 as this sub-paragraph is covered by the opening sentence of sub-paragraph (b).

(3) The following gross performance information (determined by extrapolation and computed for the range of weights between the maximum landing weight and maximum takeoff weight) must be provided:

(i) Climb in the landing configuration.

(ii) Climb in the approach configuration.

(iii) Landing distance.

(4) Procedures established under § 25.101 (f) and (g) that are related to the limitations and information required by JAR 25.1533 and by this paragraph must be stated in the form of guidance material, including any relevant limitation or information.

(5) An explanation of significant or unusual flight or ground handling characteristics of the aeroplane.

(6) Corrections to indicated values of airspeed, altitude and outside air temperature.

(7) An explanation of operational landing runway length factors included in the presentation of the landing distance, if appropriate. (See ACJ 25.1587(b)(7).)''

What Are the Differences in the Standards and What Do Those Differences Result In?

There are several differences between the current standards:

- Part 25 does not include the text of JAR 25.1587(b)(6) or (b)(7).
- The JAR does not include the text of § 25.1587(a) or (b)(2).
- The JAR contains some wording different from part 25 that better reflects current interpretations and practices.

These differences do not necessarily entail any substantial differences in technical requirements for including performance information in the AFM. If differences in practice have arisen, they would have resulted more from differences in the means of compliance (and interpretation). Because the relevant guidance material—the FAA's AC 25.1581–1 and the JAA's new AMJ 25.1581—is now harmonized, any potential for such differences to arise in the future is minimized.

What, If Any, Are the Differences in the Means of Compliance?

As one means to demonstrate compliance with § 25.1585, applicants have relied on the guidance material related to the operating procedures section of the AFM that is contained in AC 25.1581–1. The JAA has provided relevant guidance in ACJs 25.1587(b)(1) and ACJ 25.1587(b)(7). Although there are differences between the texts of the FAA AC and the JAA ACJs, both authorities agree that the FAA's AC represents a harmonized text. As noted previously, the JAA has recently revised its guidance and published a new AMJ 25.1581, which is harmonized with the FAA's AC 25.1581–1.

What Action Did the FAA Propose?

In the NPRM, the FAA proposed to harmonize the regulations by revising § 25.1587 to adopt portions of the text of JAR 25.1587. The proposed action would codify current FAA policy, and achieve harmonization with the JAR.

In general, where the standards were different, the FAA found that the JAR standard more properly reflects current practices and, in those cases, proposed using the JAR text as the harmonized standard. In areas where there was a requirement in one standard that did not appear in the other standard, the FAA proposed carrying over that requirement into the proposed harmonized standard. The FAA also proposed including some minor non-substantive editorial changes in the proposed standard. The JAA is now planning to revise JAR 25.1587 in the same way; once this is done, harmonization of this standard will be complete.

How Does the Revised Standard Address the Underlying Safety Issue?

The revised standard continues to address the underlying safety issue in the same manner by requiring performance information necessary for airworthiness and operational safety to be furnished in the AFM.

What Is the Effect of the Revised Standard on the Current Regulations?

The revised standard maintains the same level, and may increase the level, of safety provided by the current regulations.

What Is the Effect of the Revised Standard on Current Industry Practice?

The revised standard maintains the same level of safety relative to current industry practice.

What Other Options Were Considered and Why Were They Not Selected?

The FAA has not considered another option. We find that revising the standard, as discussed above, is the most appropriate way to fulfill harmonization goals while, at the same time, maintaining safety and not affecting current industry design practices.

Who Will Be Affected by the Revised Standard?

Manufacturers and operators of transport category airplanes could be affected by the revised standard. However, because the revised standard does not result in any practical changes in requirements or practice, there will not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA considers that the guidance contained in AC 25.1581–1 is adequate as it pertains to the revised standard. Additionally, as noted above, the JAA recently issued a parallel AMJ 25.1581 that provides guidance similar to, and harmonized with, that contained in AC 25.1581–1. In light of this, we do not consider that any additional advisory material is needed relevant to the revised standard.

Discussion of Comments Submitted to the NPRM

We received comments from two commenters in response to the proposal.

The first commenter, representing numerous groups in the aviation industry, fully supports the proposed actions.

Comments Concerning Section 25.1527

The second commenter, a non-U.S. airframe manufacturer, suggests that the title of revised § 25.1527, ''Maximum operating altitude,'' be changed. Because the new text applies to the extremes of the ambient air temperature and operating altitude, the title should better reflect the content of the section. The commenter also notes that the title should be changed to be consistent with that of JAR 25.1527, which is ''Ambient air temperature and operating altitude.''

We concur and have changed the title of § 25.1527 to ''Ambient air temperature and operating altitude.'' Since this section has been harmonized by adopting the JAR standard, it is appropriate that the two parallel sections have the same title.

Comments Concerning Section 25.1587

The same commenter notes that paragraph (b)(3) of the proposed § 25.1587 refers to ''* * * the range of weights between the *maximum* landing weight and the *maximum* takeoff weight.'' The commenter believes that this range should cover the *minimum* landing weight and *maximum* takeoff weight. The commenter notes that this same comment applies to the existing § 25.1587(b)(3).

We disagree with this commenter. Section 25.1587(b) requires applicants to provide the performance information computed under the applicable part 25 provisions for all weights within the operational limits of the airplane in the Airplane Flight Manual. This general requirement would require the performance information specified in § 25.1587(b)(3) to be provided for the weights between the minimum and maximum landing weights. Section 25.1587(b)(3) additionally requires applicants to provide certain performance information pertinent to landing for weights between the maximum landing weight and the maximum takeoff weight. The reason for requiring this additional information beyond the maximum landing weight to be provided in the Airplane Flight Manual is to cover the possibility of an immediate return to landing after a maximum weight takeoff. Accordingly, we have made no changes to this section in the final rule.

What Regulatory Analyses and Assessments Has the FAA Conducted? Economic Evaluation, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

In conducting these analyses, the FAA has determined that this rule has benefits, but no more than minimal costs, and that it is not ''a significant regulatory action'' under section 3(f) of Executive Order 12866. This rule will not have a significant economic impact on a substantial number of small entities, reduces barriers to international trade, and imposes no unfunded mandates on state, local, or tribal governments, or the private sector.

The (DOT) Order 2100.5, ''Regulatory Policies and Procedures,'' prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the rule does not warrant a full evaluation, a statement to that effect and the basis for it is included in the regulation. We provide the basis for this minimal impact determination below. We received no comments that conflicted with the economic assessment of minimal impact published in the NPRM for this action. Given the reasons presented below, and the fact that no comments were received to the contrary, we have determined that the expected impact of this rule is so minimal that the final rule does not warrant a full evaluation.

Currently, airplane manufacturers must satisfy both the requirements of 14 CFR and the European JAR certification standards to market transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane, often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create, to the maximum possible extent, a single set of certification requirements accepted in both the United States and Europe. As discussed previously, these efforts are referred to as ''harmonization.'' This final rule results from the FAA's acceptance of an ARAC harmonization working group's recommendation. Members of the ARAC working group agreed that the requirements of this rule will not impose additional costs to U.S. manufacturers of part 25 aircraft.

Specifically, this rule requires the following:

Change 1: New § 25.1516, ''Other Speed Limitations''

U.S. manufacturers of part 25 airplanes comply now with § 25.1501 through the advice of FAA AC 25.1581–1. They also will comply with the new § 25.1516, which is harmonized to existing JAR 25X1516, because § 25.1501 encompasses the requirements of the new FAA standard.

We expect that the result of this harmonization action will be that compliance with either § 25.1516 or JAR 25X1516 will mean compliance with the other. Further, because new JAA advisory material is harmonized with FAA's AC 25.1581–1, the U.S. manufacturers will not need to change the means by which they comply with these harmonized rules.

Change 2: § 25.1527, ''Ambient Air Temperature and Operating Altitude''

U.S. manufacturers of part 25 airplanes comply now with § 25.1501 through the advice of FAA's AC 25.1581–1. They also will comply with the revised § 25.1527, which is harmonized with JAR 25.1527, because § 25.1501 encompasses the requirements of § 25.1527 as it is amended in this rulemaking action.

We expect that the result of this harmonization action will be that compliance with either § 25.1527 or JAR 25.1527 will mean compliance with the other. Further, because new JAA advisory material is harmonized with FAA AC 25.1581–1, U.S. manufacturers will not need to change the means by which they comply with these harmonized rules.

Change 3: § 25.1583(c), ''Operating Limitations/Weight and Loading Distribution''

U.S. manufacturers of part 25 airplanes comply now with §§ 25.1501 and 25.1581(a)(2) through the advice of FAA's AC 25.1581–1. They also will comply with revised of § 25.1583(c) , which is harmonized with the existing JAR 25.1583(c), because §§ 25.1501 and 25.1581(a)(2) encompass § 25.1583(c) as it is amended in this rulemaking action.

This amendment revises § 25.1583(c) to eliminate its inclusion of direct references to § 25.25 and to § 25.27, and its concomitant omission of a direct reference to § 25.23. By amending § 25.1583(c) so that it refers directly to § 25.1519, which includes references to these three sections, they—§ 25.25, § 25.27, and § 25.23—are incorporated into the scope of § 25.1583. Thus, all three sections will be referenced indirectly by § 25.1583(c) through its reference to § 25.1519.

We expect that the result of this harmonization action will be that compliance with either § 25.1583(c) or JAR 25.1583(c) will mean compliance with the other. Further, because new JAA advisory material is harmonized with the FAA's AC 25.1581-1, the U.S. manufacturers will not need to change the means by which they comply with the harmonized rules.

Change 4: § 25.1583(f), ''Operating Limitations/Altitudes''

U.S. manufacturers of part 25 airplanes comply now with §§ 25.1501 and 25.1581(a)(2) through the advice of the FAA's AC 25.1581–1. They also will comply with this amendment, which harmonizes § 25.1583(f) with the existing JAR 25.1583(f), because § § 25.1501 and 25.1581(a)(2) encompass the requirements of § 25.1583(f) as it is amended in this rulemaking action.

We expect the result of this harmonization action will be that compliance with either § 25.1583(f) or JAR 25.1583(f) will mean compliance with the other. Further, because new JAA advisory material is harmonized to FAA's AC 25.1581–1, the U.S. manufacturers will not need to change the means by which they comply with these harmonized rules.

Change 5: § 25.1585, ''Operating Procedures''

U.S. manufacturers of part 25 airplanes comply now with existing § 25.1585, which encompasses and exceeds the scope of existing JAR 25.1585. They also will comply with the revised standard that harmonizes § 25.1585 with JAR 25.1585.

The part 25 requirement will be harmonized with the JAR because, with one exception, the content of the JAA rule better presents FAA's current policy, practices, and interpretations than does the content of the existing FAA rule. The single exception is the omission in JAR 25.1585 as an equivalent to § 25.1585(b). This paragraph requires information and instructions to be furnished toward compliance with § 25.953. The harmonized FAA/JAA standard will maintain this current FAA requirement. Harmonization of related advisory material is completed now that new JAA advisory material is harmonized with existing FAA advisory material.

We expect the result of this harmonization action will be that compliance with either § 25.1585 or JAR 25.1585 will mean compliance with the other. Further, no reduction in the level of safety will result from this action. Neither the harmonization of the rules, nor the harmonization of associated JAA advisory material with the FAA advisory material, will present U.S. manufacturers with any practical change in their procedures.

Change 6: § 25.1587, ''Performance Information''

U.S. manufacturers of part 25 airplanes comply now separately with existing § 25.1587 and JAR 25.1587, which differ in some particulars. This rulemaking action results in a harmonized FAA/JAA standard, such that manufacturers'' compliance with either rule will mean compliance with the other.

The harmonized standard incorporates the requirements of § 25.1587(a) and of § 25.1587(b)(2), which now are lacking in the JAR. It also incorporates the requirements of JAR 25.1587(b)(6) and of JAR 25.1587(b)(7), which were lacking in part 25. Harmonization of related advisory material is completed now that the JAA advisory material is harmonized with existing FAA advisory material.

We expect the result of this harmonization action will be that compliance with either § 25.1587 or JAR 25.1587 will mean compliance with the other. Neither the harmonization of the rules, nor the harmonization of associated JAA advisory material with the FAA advisory material, will present U.S. manufacturers with any practical change in their procedures.

Benefits and Costs of the Changes

The effect of these regulatory changes will be to improve the codification of current certification practice, and no consequent substantive change either in practice or in costs of compliance will result. Thus, we anticipate that minimal additional costs will be associated with compliance with this rule.

We expect that these changes will result in benefits in the form of cost savings received by affected manufacturers because they will be able to effect compliance with both part 25 and JAR requirements in a simpler and more direct fashion. Further, we expect that the existing level of safety will be maintained.

We have not attempted to quantify the benefits from cost savings that may accrue because of this rule beyond noting that, while the savings from this rule may be small, they are part of a potentially large savings from the harmonization program. We have concluded that, because there is agreement among the potentially affected airplane manufacturers that no costs and no more than minimal savings

will result, further analysis is not required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601–612, directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as defined in the Act.

If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.'' However, if we find that the action will not have a significant economic impact on a substantial number of small entities, we are not required to do the analysis. In this case, the Act requires that we include a statement that provides the factual basis for our determination.

We have determined that this amendment will not have a significant economic impact on a substantial number of small entities for two reasons:

First, the net economic effect of the rule is minimal regulatory cost relief. The amendment requires that new transport category aircraft manufacturers meet just the ''more stringent'' European certification requirement, rather than both the United States and European standards. Airplane manufacturers already meet or expect to meet this standard, as well as the existing part 25 requirement.

Second, all United States manufacturers of transport category airplanes exceed the Small Business Administration small entity criteria of 1,500 employees for aircraft manufacturers. Those U.S. manufacturers include:

- The Boeing Company,
- Cessna Aircraft Company,
- Gulfstream Aerospace,
- Learjet (owned by Bombardier Aerospace),
- Lockheed Martin Corporation,
- McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company),
- Raytheon Aircraft, and
- Sabreliner Corporation.

We received no comments from the public that differed with the assessment given in this section. Since this final rule is minimally cost-relieving and there are no small entity manufacturers of part 25 airplanes, the FAA Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with that statute and policy, we have assessed the potential effect of this final rule and have determined that it supports the Administration's free trade policy because the rule will use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted yearly for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is considered to be a ''significant regulatory action.''

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 3132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3507(d)], the FAA has determined there are no new requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. We determined there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The FAA has assessed the energy impact of this final rule accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. We have determined that the amendment is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this final rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could affect intrastate aviation in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the use of plain language, the FAA re-

examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 25 of Title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

2. Add new § 25.1516 to read as follows:

§ 25.1516 Other speed limitations.

Any other limitation associated with speed must be established.

3. Revise § 25.1527 to read as follows:

§ 25.1527 Ambient air temperature and operating altitude.

The extremes of the ambient air temperature and operating altitude for which operation is allowed, as limited by flight, structural, powerplant, functional, or equipment characteristics, must be established.

4. Amend § 25.1583 by revising paragraphs (c) and (f) to read as follows:

§ 25.1583 Operating limitations.

* * * * *

(c) *Weight and loading distribution.* The weight and center of gravity limitations established under § 25.1519 must be furnished in the Airplane Flight Manual. All of the following information, including the weight distribution limitations established under § 25.1519, must be presented either in the Airplane Flight Manual or in a separate weight and balance control and loading document that is incorporated by reference in the Airplane Flight Manual:

(1) The condition of the airplane and the items included in the empty weight as defined in accordance with § 25.29.

(2) Loading instructions necessary to ensure loading of the airplane within the weight and center of gravity limits, and to maintain the loading within these limits in flight.

(3) If certification for more than one center of gravity range is requested, the appropriate limitations, with regard to weight and loading procedures, for each separate center of gravity range.

* * * * *

(f) *Ambient air temperatures and operating altitudes.* The extremes of the ambient air temperatures and operating altitudes established under § 25.1527 must be furnished.

* * * * *

5. Revise § 25.1585 to read as follows:

§ 25.1585 Operating procedures.

(a) Operating procedures must be furnished for—

(1) Normal procedures peculiar to the particular type or model encountered in connection with routine operations;

(2) Non-normal procedures for malfunction cases and failure conditions involving the use of special systems or the alternative use of regular systems; and

(3) Emergency procedures for foreseeable but unusual situations in which immediate and precise action by the crew may be expected to substantially reduce the risk of catastrophe.

(b) Information or procedures not directly related to airworthiness or not under the control of the crew, must not be included, nor must any procedure that is accepted as basic airmanship.

(c) Information identifying each operating condition in which the fuel system independence prescribed in § 25.953 is necessary for safety must be furnished, together with instructions for placing the fuel system in a configuration used to show compliance with that section.

(d) The buffet onset envelopes, determined under § 25.251 must be furnished. The buffet onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different center of gravity locations are furnished.

(e) Information must be furnished that indicates that when the fuel quantity indicator reads ''zero'' in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(f) Information on the total quantity of usable fuel for each fuel tank must be furnished.

6. Revise § 25.1587 to read as follows:

§ 25.1587 Performance information.

(a) Each Airplane Flight Manual must contain information to permit conversion of the indicated temperature to free air temperature if other than a free air temperature indicator is used to comply with the requirements of § 25.1303(a)(1).

(b) Each Airplane Flight Manual must contain the performance information computed under the applicable provisions of this part (including §§ 25.115, 25.123, and 25.125 for the weights, altitudes, temperatures, wind components, and runway gradients, as applicable) within the operational limits of the airplane, and must contain the following:

(1) In each case, the conditions of power, configuration, and speeds, and the procedures for handling the airplane and any system having a significant effect on the performance information.

(2) V_S determined in accordance with § 25.103.

(3) The following performance information (determined by extrapolation and computed for the range of weights between the maximum landing weight and the maximum takeoff weight):

(i) Climb in the landing configuration.

(ii) Climb in the approach configuration.

(iii) Landing distance.

(4) Procedures established under § 25.101(f) and (g) that are related to the limitations and information required by § 25.1533 and by this paragraph (b) in the form of guidance material, including any relevant limitations or information.

(5) An explanation of significant or unusual flight or ground handling characteristics of the airplane.

(6) Corrections to indicated values of airspeed, altitude, and outside air temperature.

(7) An explanation of operational landing runway length factors included in the presentation of the landing distance, if appropriate.

Issued in Renton, Washington, on June 15, 2001.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–15852 Filed 6–25–01; 8:45 am]

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Federal Register

Tuesday,
June 26, 2001

Part IV

Department of Education

National Institute on Disability and Rehabilitation Research

Final Funding Priorities for Fiscal Years 2001–2003 for Four Disability and Rehabilitation Research Projects; Invitation for Applications for Fiscal Year 2001 New Awards and Announcement of Pre-Application Meetings; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Notice of Final Funding Priorities for Fiscal Years 2001–2003 for Four Disability and Rehabilitation Research Projects

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final funding priorities for fiscal years 2001–2003 for four disability and rehabilitation research projects.

SUMMARY: We are announcing four final funding priorities under the Disability and Rehabilitation Research Projects and Centers Program (DRRP) of the National Institute on Disability and Rehabilitation Research (NIDRR) for FY 2001–2003: Assistive Technology Outcomes, Impacts and Assistive Technology Research Projects for Individuals with Cognitive Disabilities, Resource Center for Community-based Research on Technology for Independence, and Community-based Research Projects on Technology for Independence. We take this action to focus research attention on areas of national need. We intend these priorities to improve the rehabilitation services and outcomes for individuals with disabilities.

DATES: These priorities take effect on July 26, 2001.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–4475. Internet: Donna.Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: This notice contains final priorities under the Disability and Rehabilitation Research Projects and Centers Program (DRRP) for Assistive Technology Outcomes, Impacts and Assistive Technology Research Projects for Individuals with Cognitive Disabilities, Resource Center for Community-based Research on Technology for Independence, and Community-based Research Projects on Technology for Independence.

The final priorities refer to NIDRR's Long-Range Plan (the Plan). The Plan can be accessed on the World Wide Web at: *http://www.ed.gov/offices/OSERS/NIDRR/#LRP.*

National Education Goals

The eight National Education Goals focus the Nation's education reform efforts and provide a framework for improving teaching and learning.

This notice addresses the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The authority for the program to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764(b)). Regulations governing this program are found in 34 CFR part 350.

Note: This notice does *not* solicit applications. A notice inviting applications is published in this issue of the **Federal Register**.

Analysis of Comments and Changes

On April 6, 2001, we published a notice of proposed priorities on the Assistive Technology Outcomes and Impacts and the Assistive Technology Research Projects for Individuals with Cognitive Disabilities in the **Federal Register** (66 FR 18366). The Department of Education received 12 letters commenting on the notice of proposed priorities by the deadline date. Technical and other minor changes—and suggested changes we are not legally authorized to make under statutory authority—are not addressed.

Priority 1: Assistive Technology Outcomes and Impacts

Comment: The primary stakeholder regarding AT outcomes is the person who uses (or is expected to use) a particular AT device. Family members and caregivers are secondary consumers, however, they may be considered primary stakeholders in the sense that two thirds of all AT is procured through first party and family funding. Therefore, it is crucial that this priority require applicants to focus on the individual with a disability rather than other primary and secondary stakeholders.

Discussion: NIDRR feels the priority is sufficiently flexible to allow the applicant to propose methodological approaches that focus on the needs of primary stakeholders such as individuals with disabilities. The peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: One commenter is concerned about using the word ''intervention'' in the general purpose statement suggesting that it is a poor choice of words and may be misinterpreted. The commenter recommends dropping the word altogether so that the last sentence of the general purpose statement reads ''* * * determine the efficacy and utility of AT and the implications.''

Discussion: NIDRR agrees that the term ''interventions'' may be misconstrued because of varying definitions and interpretations.

Changes: The word ''interventions'' has been dropped from the general purpose statement.

Comment: The second bulleted activity lists a number of relevant organizations that applicants must collaborate with. Given that AT users are the primary targets of this priority, this bulleted activity should be expanded to include AT users.

Discussion: The second bulleted activity enumerates relevant NIDRR projects and not specific stakeholders. The purpose of this priority is to investigate AT outcomes and 2 impacts and cannot be carried out without the full participation and support of AT users.

Changes: None.

Comment: The assessment and evaluation of AT should include questions related to both positive and negative impacts of AT use and the acquisition of AT through various financial means.

Discussion: Economic and cost factors, as well as positive and negative outcomes, of AT use are discussed in the background statement. An applicant can propose methodological approaches to measure outcomes and impacts that take into account both positive and negative impacts of AT use and the acquisition of AT through various financial means and the peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: One commenter feels that the application of AT to specific populations (such as frail elderly persons, infants and toddlers, and their care providers) should be examined in terms of financial benefits to individuals and care systems as well as functional outcomes for individuals.

Discussion: NIDRR agrees with the commenter that an examination of the application of AT to specific populations and its impact on care systems as well as individuals is critical to the development of useful measurement systems and this was mentioned in the background statement. An applicant may propose to examine the financial benefits to individuals and

care systems as well as functional outcomes for individuals with disabilities and the peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: One commenter suggested that long-term outcomes need to be addressed specifically. Preliminary research indicates that the use of AT will delay institutionalization and, along with personal attendant services, will maintain a person in a relatively independent state for a given period of time. For people with significant disabilities, including those with Alzheimer's and other dementia diseases who use assistive devices, it may be useful and instructive to discover the long-term effects of reliance on AT for independent living.

Discussion: NIDRR agrees that maintaining an independent life style for as long as possible is critical for all people and that the use of AT plays an important role in independent living. The background statement and the priority support the commenter's contention. An applicant may propose ways to measure the impact of AT on maintaining independence in its application and the peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: The cost-benefit of AT on healthcare is an essential impact question. Efforts to evaluate the appropriate use of AT and its financial benefits to insurance providers (both public and private) are essential. Related to this issue is the impact of managed care systems on the appropriate provision of AT to persons with disabilities. The positive or negative effects of this type of delivery system should be investigated in terms of long-term health outcome, including the reduction of time spent in healthcare institutions, for individuals with disabilities.

Discussion: NIDRR agrees that there are a myriad of issues related to the cost, economics, and financial benefits of AT. An applicant may propose to investigate issues related to the cost, economics, and financial benefits of AT and the peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: The same commenter believes that the impact of expanding approved lists of durable medical equipment through DMERCs on individual outcomes should also be assessed.

Discussion: Developing lists of approved durable medical equipment through DMERCs and assessing their impact on individual outcomes is beyond the scope of this priority.

Changes: None.

Comment: One commenter cites the need to develop methods and standards of practice to help organizations monitor the quality of services and outcomes.

Discussion: Developing methods and standards of practice for organizational monitoring of quality assurance is beyond the scope of this priority.

Changes: None.

Comment: The same commenter feels that three levels of information must be measured; the impact of AT on the individual, the impact on the community and how and in what context the service was delivered.

Discussion: NIDRR agrees that these are important dimensions of AT use and addressed these factors in the background statement. An applicant may propose ways to measure the different levels of impact of the provision of AT on the consumer, on the community, and the context in which the AT was provided. The peer review process will evaluate the merits of the proposal.

Changes: None.

Priority 2: Assistive Technology Research Projects for Individuals With Cognitive Disabilities

Comment: Four commenters suggest that an activity should be added to the priority requiring applicants to investigate ways of making the Internet accessible to people with cognitive disabilities.

Discussion: NIDRR agrees that access to the Internet, and therefore, information is extremely important for persons with cognitive disabilities. An applicant could propose to investigate ways to make the Internet more accessible for persons with cognitive disabilities and the peer review process will evaluate the merits of the proposal.

Changes: None.

Priority 3: Resource Center for Community-Based Research for Independence; Priority 4: Community-Based Research Projects on Technology for Independence

On April 6, 2001, we published a notice of proposed priorities in the **Federal Register** (66 FR 18360). The Department of Education received 14 letters commenting on the notice of proposed priorities by the deadline date. Many of the comments concerned both priorities, raised multiple issues and suggestions, and overlapped with other comments. NIDRR is responding to the comments on priority one and priority two jointly. As a group, the comments indicated a need to clarify the purposes and expectations for these priorities and to explain some of the legislative and regulatory constraints under which they were proposed. Technical and other minor changes—and suggested changes we are not legally authorized to make under statutory authority—are not addressed.

General Comments

Comment: Several commenters suggested that each project be required to address a variety of different topics, such as rural areas, effects of technology on health outcomes, 5 specific disability populations, such as deaf individuals, caregivers, or families.

Discussion: A major purpose of this program is to address issues, within the general area of access to appropriate technology, that are identified as important by individuals with disabilities. This priority is concerned generally with research on understanding potential roles for community-based disability organizations in research on increasing access to Assistive Technology (AT) and systems technology, and with developing partnerships and research strategies for use by community-based disability organizations. NIDRR elects not to further constrict the selection of problems for study. Applicants may elect to study issues of single disability populations or cross-disability concerns, and may target any populations relevant to improving access to technology, including families, caregivers, professional service providers, product distributors, or others. It is up to the applicants to convince the peer reviewers of the importance of the problem they elect to address.

Changes: None.

Comment: Several commenters discussed the definition of community-based disability organization and of consumer control. The gist of these comments related to either: declaring certain types of organizations (e.g., University Affiliated Programs, now named University Centers of Excellence, or facility-based employment programs) to be community-based organizations; restricting the competition to consumer-directed organizations; or declaring various types of organizations to be either eligible or ineligible for the competition. One commenter argued that the intent to ''involve community disability organizations'' is objectionable, and that grants should be made only to grassroots organizations, and not universities.

Discussion: NIDRR does not have the authority to restrict eligibility for the DRRP competition beyond that specified in the statute. The regulations specify that any public or private organization,

whether nonprofit or for-profit, institution of higher education, or Indian tribe or tribal organization, is eligible to apply for a grant in this program. Since the purpose of this priority is to build research capacity in community-based disability organizations to study problems of access to technology, NIDRR requires in the priority that any application to be funded must include a community-based disability organization, either as sole applicant or as a partner in the endeavor. According to the priority, ''A community-based disability organization is a consumer-directed disability organization * * * consumer control is the key.'' While NIDRR regulations do not define these terms, regulations for the Independent Living Programs, also funded under the Rehabilitation Act, as amended, define ''consumer control'' to mean that ''a center or eligible agency vests power and authority in individuals with disabilities * * *'' [34 CFR 364.4 (b)]. Further, dictionary definitions and the sense of this priority indicate that community-based organizations are not institution-based, and that disability organizations are those of, by, and for persons with disabilities. It will be up to the peer reviewers in applying the selection criteria to judge how well an application responds to the purposes of the priority of building research capacity in community-based disability organizations and works through community-based disability organizations to ''* * * broaden the inclusion of persons with disabilities in developing practical and affordable solutions to AT and environmental access problems and needs''.

Changes: None.

Comment: Several commenters discussed standards and requirements for AT to be developed under these grants. At the same time, other commenters pointed out that there were many barriers to access beyond the development of new technology.

Discussion: The priority does not address development of technology, but rather research on improved access to technology. Applicants could propose to develop new technology or devices if the project met the basic purposes of building research capacity in community-based disability organizations by addressing issues of increasing access to technology, both individual AT and systems (environmental access). However, NIDRR does not anticipate that development of new technology will be the focus of all, or even any, of these projects. Issues of improving access also include distribution, diagnosis and prescription, funding, maintenance, training, and other problems. Potential applicants are referred to both the NIDRR Long-Range Plan (1999) and the Blueprint for the Millennium: An Analysis of Regional Hearings on Assistive Technology for People with Disabilities (1998) for discussions of the complex issues in technology access for individuals with disabilities. It is up to the applicants to convince the peer reviewers of the importance of the problem they elect to address.

Changes: None.

Comment: Several commenters asked that additional NIDRR centers or entities funded from other sources be specified as resources for cooperation in the priority.

Discussion: The priority states, ''Coordinate with appropriate federally-funded projects.'' The priority then provides examples of what may be included. It is not feasible or necessary to list all potential cooperators, and astute applicants will survey the field to identify the most appropriate organizations for coordination to advance the success of their proposed projects.

Changes: None.

Comment: One commenter requested a clarification of the meaning of ''environmental access'' and whether it applies only to AT, or could include other environmental issues.

Discussion: The priority refers to AT and environmental access. The Plan refers to technology to improve function and technology to improve access to the built environment. Modifications to the physical and telecommunications environments, including applications of universal design, may include architectural modifications, signage for persons with sensory or cognitive limitations, and public transit modifications that enable persons with disabilities to access the broader environment.

Changes: None.

Comment: One commenter stated that there should be a requirement that every applicant must indicate how they are developing research capacity among individuals with disabilities.

Discussion: NIDRR agrees that this is an important aspect of the projects and has added language in the priority to this effect.

Changes: The language ''applicants must describe how they will develop research capacity among individuals with disabilities at the community level'' has been inserted as paragraph (c) in the final section of both priorities.

Comment: One commenter noted that although dissemination of project findings through electronic media is often effective, it would be inappropriate to limit the dissemination of findings to electronic media and that accessible electronic media in combination with other accessible media should be used.

Discussion: Selection criteria for dissemination activities address appropriateness of dissemination approaches and that such methods are accessible to individuals with various disabilities.

Changes: None.

Disability and Rehabilitation Research Projects and Centers Program

The authority for Disability and Rehabilitation Research Projects (DRRP) is contained in section 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764(b)). The purpose of the DRRP program is to plan and conduct research, demonstration projects, training, and related activities to—

(a) Develop methods, procedures, and rehabilitation technology that maximizes the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities; and

(b) Improve the effectiveness of services authorized under the Act.

Priority 1: Assistive Technology Outcomes and Impacts

Background

One of the greatest challenges facing health care systems, social services providers and policymakers is to ensure that scarce resources are used efficiently. To a large extent, this challenge explains the growing interest in outcomes research and evidence-based medicine.

Particular interest in outcomes of assistive technology (AT) is related to the amount of dollars spent on developing and manufacturing AT, AT service delivery and to the need to improve the functional independence and well-being of persons with disabilities of all ages. Yet, assessment of the impact of technology on function and other productivity and quality of life outcomes lags behind outcomes measurement in other areas of rehabilitation.

There are several factors that promote concern about the paucity of outcomes research in AT including the: (a) Ability to demonstrate efficacy of new devices; (b) need to examine effectiveness of devices over time; and (c) need to chart future research and development to improve devices (Fuhrer, M. J., ''Assistive technology outcomes

research: challenges met and yet unmet,'' *American Journal of Physical Medicine and Rehabilitation*, 2001, In press). Outcomes research and analysis is also needed to guide decisionmaking across multiple levels of policy and program development, including: (a) Decisions on a societal level regarding types of public programs and services to fund; (b) decisions on a programmatic level regarding what services to continue, enhance, modify or eliminate; (c) decisions on an individual level regarding AT recommendations and interventions; and (d) decisions on a research level regarding the comparative effectiveness of individual devices and the impact on future designs (Smith, R., ''Measuring the outcomes of assistive technology: challenge and innovation'', *Assistive Technology,* Vol. 8, No. 2, pgs. 71–81, 1996).

In the face of a growing interest in outcomes, the inconsistent use of terminology contributes to the confusion that exists in the application of a generally accepted outcomes approach. In the field of rehabilitation, outcomes measurement has focused on creating outcomes management systems and measuring and communicating outcomes. Rehabilitation has led the health care field in its emphasis on changes in function as an outcomes measure. Still, even in rehabilitation, outcomes measurement systems have typically focused on process variables, i.e., the outputs of products and services, and not on gains to the individual or society in either the short or long term. Wilkerson posits that this emphasis on process will change because of three factors: (a) The pressure to cut costs; (b) growth of consumerism leading to increased input from users and increased focus on the needs of the end user; and (c) concerns about quality in relation to costs (Wilkerson, D., ''Outcomes and accreditation—The paradigm is shifting toward outcome,'' *Rehab Management,* August/September, pgs. 112–115, 1997).

Outcomes research is defined in different ways across rehabilitation and health services research as well as in the social services field. The Foundation for Health Services Research (Foundation for Health Services Research, *Health Outcomes Research: A Primer,* Washington, DC, 1994) characterized outcomes research as research focused on the ''end results of medical care—the effect of the health care process on the health and well-being of patients and populations.'' The Institute of Medicine (IOM) (Feasley, J.C., ed., *Health Outcomes for Older People: Questions for the Coming Decade,* Washington, DC: National Academy Press, 1996) expanded this definition to include ''the clinical signs and symptoms, well-being or mental and emotional functioning; physical, cognitive, and social functioning; satisfaction with care; health-related quality of life, and costs and appropriate use of resources.'' Outcomes research has also been defined as research designed to discover the sustained impact of rehabilitative strategies and treatments in the everyday lives of persons with disabilities. ''Outcomes research attempts to build a bridge between interventions and long-term improvements in the lives of persons served as they reenter the community'' (Johnston, M., et al., ''Outcomes research in medical rehabilitation—foundations from the past and directions for the future,'' *Assessing Medical Rehabilitation Practices: The Promise of Outcomes Research,* Marcus J. Fuhrer, ed., pgs. 1–42, 1997). Regardless of how it is defined, outcomes research is part of the larger framework of program evaluation (Fuhrer, op. cit., 1997), and includes both outcomes analysis and outcomes measurement also known as performance measurement (Jennings, B.M. and Staggers, N., The language of outcomes, *Journal of Rehabilitation Outcomes Measurement,* Vol. 3, No. 1, pgs. 59–64, 1999).

Rehabilitation outcomes are changes produced by rehabilitation services in the lives of service recipients and their environments. Outcome indicators are measures of the amount and frequency of those occurrences, and include service quality. Within this perspective, some analysts use the word ''impacts'' to distinguish between long-term outcomes or end results that occur on a societal versus an individual level. Still others use the term ''impact'' more strictly to refer to estimates of the extent to which the program actually ''caused'' particular outcomes (Hatry, H., et al., *Customer Surveys for agency managers: What Managers Need to Know,* Washington, DC: Urban Institute, 1998). Deconstructing these various definitions and types of outcomes and impacts requires recognition of complexity on many levels.

Although AT has grown as a discipline and as an industry over the past two decades, there has not been a corresponding maturity in developing or assessing the outcomes or impacts of AT upon individuals with disabilities. AT devices and services outcomes also may be difficult to define because of the ways AT is used. For example, AT is used to increase participation in the environment, enhance normative social roles, promote and sustain employment, and facilitate activities of daily living. Some devices, such as computers, increase access to information and support life long learning. AT devices vary significantly from highly complex and sophisticated computer-operated systems to low tech approaches that can be easily purchased or built. Complicating the issue even further are the individual characteristics of the AT user and the varied environments in which users live, work, and learn.

Approximately one-third of AT devices will be abandoned by the user (Phillips, B. and Zhao, H. ''Predictors of assistive technology abandonment'', *Assistive Technology,* Vol. 5, pgs. 36–45, 1995). There are many reasons why individuals with disabilities choose to accept or reject AT devices. Since public funds provide a major source for purchasing AT devices and services, useful and accurate measures of outcomes and impacts is critical for accountability and to avoid wasteful outcomes. Is abandonment a negative or could it be a positive outcome? Abandonment has been viewed as the end result of fragmented service provision, poor assessment techniques, lack of consumer choice in device selection, inattention to device use across environments, inadequate training, costly repairs, need to upgrade and obsolete or inappropriate technology. However, abandonment may be a natural phenomenon related to improved physical or cognitive function, the result of a technology upgrade or because different technology is a better fit between the end-user and the environment.

There are other reasons to account for the lack of momentum in measurement development and outcomes and impact research on AT. Most of the endorsements of a particular device or service are based on anecdotal information (Fuhrer, 1999) rather than data generated from research. Frank DeRuyter (''Evaluating outcomes in assistive technology: do we understand the commitment,'' *Assistive Technology,* Vol. 7, No. 1, pgs. 3–16, 1995), observed that historically, AT was considered a remedy to impairment or dysfunction, and the urgency of consumer need was of greater importance than relying upon data to document the efficacy of a particular device. In addition, quality was perceived as too abstract and difficult to measure and define. Vendors and practitioners may feel threatened by potential findings and accountability demands, which may also have contributed to the lack of outcomes studies (DeRuyter, op. cit., 1995).

While the AT arena is complex and broad, several outcomes studies have

focused on a discrete segment of the entire system. Smith says that there are essentially two domains of outcome measurement: the performance of an individual using assistive technology and the cost of achieving the level of performance (Smith, R. O., ''Accountability in assistive technology interventions: measuring outcomes,'' *Volume I—RESNA Resource Guide of Assistive Technology Outcomes: Measurement Tools,* pgs. 15–43, 1998). Minkel proposed that the primary measure to determine the value of the assistive technology is the basic formula of outcomes divided by cost (Minkel, J., ''Assistive technology and outcomes measurement: Where do we begin?'' *Technology and Disability,* July, pgs. 285–288, 1996). There are others within the AT community who operate under the assumption that improvements and innovation in technology will ''naturally'' lead to successful use and implementation, and therefore do not need to be evaluated. From this perspective, technological solutions have been viewed as a panacea without the benefit of data to support prevailing assumptions (DeRuyter, F., ''Concepts and rationale for accountability in assistive technology,'' *Volume I—RESNA Resource Guide of Assistive Technology Outcomes: Measurement Tools,* pgs. 2–15, 1998).

At a minimum, the process of evaluating AT outcomes must measure and establish a baseline of what works, identify how well and for whom it works, and at what level of economy and efficiency. This process will necessitate taking information from several performance monitoring dimensions (De Ruyter, op. cit., 1998). In approaching the challenges of AT outcomes measurement, it is important to identify if the outcomes relate to the AT product or service, the user, or to the environment in which the technology is being used. While not standardized or widely endorsed, a variety of measurement techniques and instruments are currently utilized. These measurement tools tend to be specific to a given practice area or limited to a functional domain, (*Volume I: RESNA—Resource Guide for Assistive Technology Outcomes: Measurement Tools*, 1998).

To proceed with assessing AT outcomes and impacts, the following questions need to be addressed. First, what are the key gaps and weaknesses in our knowledge of AT use and its impacts? Are the key research questions related to a particular intervention at a particular point in time? How do device modifications and upgrades change the intervention? How do characteristics of the population including severity of impairment, duration of disability, presence of co-morbidities, aging and other sociodemographic factors influence technology utilization and bias outcomes study? What is the role of environmental, economic, awareness and training barriers in AT use and outcomes? These different levels of outcomes can look at impacts and effects of technology at one point in time, more typically a clinical or functional outcome, or can be examined in terms of long-term impacts on individual quality of life, productivity and social participation. As one researcher expressed it, in addition to longitudinal studies, ''the research agenda must consider lifelong use of assistive technology, documenting effectiveness of that technology as an intervention, identifying stages for reconsideration of its use, and defining environmental and social considerations'' (Turk, M. A., ''Early development-related condition,'' *Assessing Medical Rehabilitation Practices—The Promise of Outcomes Research*, Marcus J. Fuhrer, ed., pgs. 367–392, 1997).

Innovations in AT will continue to evolve and many AT users, as they have in the recent past, will experience increases in independence, function, and general well being. Concurrently, the gap between the promise of technology and the ability of individuals and funding sources to afford them will continue to widen. This will result in a greater need for knowledge about the cost-effectiveness and efficiency of particular devices and services (Fuhrer, M.J., ''Assistive technology outcomes research: challenges met and yet unmet,'' *American Journal of Physical Medicine and Rehabilitation*, 2001, In press).

Priority 1

We will establish multiple research projects on AT outcomes and impacts to determine the efficacy and utility of AT and the implications for abandonment of AT devices. In carrying out these purposes, the projects must:

(a) Assess the current status of AT outcomes and impacts measurement systems and approaches, identifying measurement methodologies, characteristics of key instruments including utility to AT field, and critical gaps in measurement;

(b) Based upon the findings of paragraph (a), evaluate efficacy of existing measurement instruments or develop and evaluate new outcomes and impacts measurement methodologies to meet the needs of AT stakeholders; and

(c) Investigate and analyze the complexity of factors contributing to the abandonment of AT, including age-related changes, and identify how these factors are incorporated into outcomes and impacts measurement instruments.

In addition to activities proposed by the applicants to carry out these purposes, each project must:

- Develop and disseminate to AT stakeholders and other interested and relevant audiences, as determined by NIDRR, materials on AT outcomes studies and impacts analyses and, periodic updates on the project's milestones, products and results; and
- Collaborate with relevant NIDRR-sponsored projects, such as the AT/IT Consumer Survey (University of Michigan), the RESNA Technical Assistance projects, and the RRTC on Medical Rehabilitation Outcomes, as identified through consultation with the NIDRR Project Officer.

Priority 2: Assistive Technology Research Projects for Individuals With Cognitive Disabilities

Background

Technology and assistive devices have commonly been used to assist persons with mobility, communication and sensory difficulties. Because of the positive impact that technology has played in the lives of these individuals, there is now a strong push toward the development of such devices for people with cognitive disabilities. The Assistive Technology Act of 1998 defines an AT device to be any item, piece of equipment or product system whether acquired commercially off the shelf, modified or customized that is used to increase, maintain or improve functional capabilities of individuals with disabilities. Rapid advances in technology provide great potential for development of new devices or adaptation of available devices to assist individuals with cognitive disabilities to develop and maintain skills.

Technology professionals, such as computer scientists and rehabilitation engineers, have limited experience applying AT solutions to users with cognitive disabilities. Nor do they yet understand the mapping between specific needs and equally specific design solutions. Most people with cognitive disabilities have a range of learning and processing capabilities. Wide variations in cognitive functioning make it difficult to develop generic solutions appropriate for all individuals. Functional capabilities associated with these disabilities may include wide ranges of ability in memory, reasoning, and language comprehension. Cognitive

functioning also includes perception, problem-solving, conceptualizing, reading, thinking and sequencing (Electronic and Information Technology Access Advisory Committee, ''EITAAC Report, May 13, 1999,'' A Report to the Architectural and Transportation Barriers Compliance Board). Common strategies to improve functioning in activities of daily living across various cognitive disabilities need to be identified, as do, issues regarding information processing that may be unique to each of these groups.

Persons with cognitive disabilities often have difficulty in carrying out Instrumental Activities of Daily Living (IADLs) because of problems with time management and information retrieval. Researchers are experimenting with the use of electronic personal computers to compensate for memory problems. Other researchers are examining methods of matching individual cognitive problems with compensatory strategies provided by a variety of commercially available portable electronic devices. In traumatic brain injury treatment, researchers are investigating the use of virtual reality technology to test visual acuity and reaction times to stimulus. Research is also being conducted on the use of text-based messages to enhance communication.

Technology is often viewed as facilitating employment of persons with disabilities. However, inaccessible technology can be a barrier to all persons with disabilities. This is particularly true for persons with cognitive impairments who may have difficulty using telephones, computers, and other equipment that are staples of most work environments. Developers and manufacturers of AT often do not consider issues of cognitive access and flexibility when designing their products.

While the congruence between the promise of AT and the needs of many people attempting to achieve community integration is obvious, little has been written about the manner in which technology affects community adaptation or the service needs of individuals with cognitive disabilities in community settings. While specific manifestations of AT have identifiable benefits, the central question needs to be empirically addressed—how can assistive technologies contribute to community integration and in what manner can the linkage be facilitated? The state of knowledge about the use of AT for persons with cognitive disabilities, as well as the outcomes of that use or lack of use and the cost-effectiveness in achieving community integration is limited. There are only a few large assessments of the technology needs of persons with cognitive disabilities and results are ambiguous because of difficulties in identifying persons with low incidence conditions and specific technology needs within the study population (Lakin, C. et al., NIDRR Long-Range Plan Commissioned Paper on Community Integration, 1996).

In order to take advantage of any potential that technological advances may have, it is important to define what makes a device easier or more difficult for a person with a cognitive disability to use. Products that are simpler and require fewer cognitive skills are easier to operate for everyone (Vanderheiden, G., 1992, ''A brief look at technology and mental retardation in the 21st century,'' in Mental Retardation in the Year 2000, Louis Rowitz, ed., New York: Springer-Verlag). ''Design guidelines'' must then be communicated to the manufacturers of consumer products and business information systems. Instructions for training on the use and maintenance of the device also need to be part of this design process. It is important for designers to be aware of the real world tasks with which the user has difficulty; hence, research needs to include persons with cognitive disabilities at the front end of all technology development. End product affordability is important not only in meeting consumer needs, but also in creating the market demand that will encourage manufacturers to enter production.

The NIDRR Long-Range Plan discusses three objectives in developing technology to meet the needs of people with limitations in cognitive functioning: to assure that new technologies are accessible and do not exacerbate exclusion from mainstream activities; to assist people with cognitive limitations in the performance of daily activities; and to develop technologies that can enhance or restore some cognitive functions (NIDRR, Long-Range Plan: 1999–2003, pg. 57).

The University of Colorado recently accepted a gift of $250 million. The endowment will fund advanced research and development of innovative technologies to enhance the lives of people with cognitive disabilities. The endowment, to be paid over five years, will be used to establish the Coleman Institute for Cognitive Disabilities located at the University of Colorado. Applicants for this project should provide information on proposed coordination with the Coleman Institute.

Priority 2

We will establish multiple research projects on technology access for persons with cognitive disabilities leading to practical and affordable solutions to identified community and workplace needs of this population. The projects must:

(a) Conduct an assessment of state-of-the-art technology applications for persons with cognitive disabilities;

(b) Based on the assessment results of paragraph (a), identify technology gaps and needs for persons with cognitive disabilities and make recommendations for new technology and modifications to existing technology;

(c) Identify features that may be incorporated into existing, commercially available technology that could benefit persons with cognitive disabilities; and

(d) Develop and explore strategies for strengthening partnerships with developers and manufacturers of devices in order to facilitate the development of new technologies and applications to incorporate cognitive access.

In addition to the activities proposed by the applicants to carry out these purposes, the projects must:

- Coordinate with the appropriate Federal agencies and privately-funded projects, such as the University of Colorado's Coleman Institute for Cognitive Disabilities, that are relevant to the applicants proposed activities as identified through consultation with the NIDRR project officer; and
- Involve individuals with cognitive disabilities in all aspects of the project.

Priorities for Community-Based Rehabilitation Projects on Technology for Independence

Background on Issues in Involvement of Community-Based Organizations of People With Disabilities in Promoting Technology for Independence

As stated in the Plan, ''It is the mission of NIDRR to generate, disseminate, and promote the full use of new knowledge that will improve substantially the options for disabled individuals to perform regular activities in the community, and the capacity of society to provide full opportunities and appropriate supports for its disabled citizens.'' Assistive Technology (AT) and environmental access play key roles in this mission. The Plan provides detailed definitions, examples, and research objectives for AT and environmental access, including universal design.

According to a National Center for Health Statistics report titled ''Trends

and Differential Use of Assistive Technology Devices: United States, 1994,'' approximately 17 million people used at least one AT device. AT and related environmental access approaches (environmental access approaches include the concept of universal design) help people with disabilities function on a more equal basis in society. For more information on the contributions of AT and access solutions, see the examples and links to relevant web sites provided by the United States Architectural and Transportation Barriers Compliance Board, also known as the Access Board (*http://www.access-board.gov/*), and the Doorway to Research on Technology for Access and Function at the National Center for the Dissemination of Disability Research (NCDDR) (*http://www.ncddr.org/rpp/techaf/index.html*).

The new paradigm of disability embodied in the Plan requires analysis of the extent to which AT and environmental access helps individuals with disabilities in attaining full participation in society. Much of NIDRR's work reflects the components of the Independent Living (IL) philosophy: consumer control, self-help, advocacy, peer relationships and peer role models, and equal access to society, programs, and activities. IL and achieving community integration to the maximum extent possible are issues at the crux of NIDRR's mission. Furthermore, NIDRR is committed to the creation of a theoretical framework with measurable outcomes that is based upon the experiences of individuals with disabilities.

To improve ''end-user'' participation in addressing AT problems, and related environmental access solutions, NIDRR will support projects that involve community-based organizations in researching AT related problems and needs. Two types of projects will be supported. The first type includes research projects that will investigate the use of, and need for, AT devices and services at the community level. The second type of project is a community-based research ''Resource Center'' that will develop, evaluate, and disseminate improved research and training methods appropriate to AT and environmental access involvement of community-based disability organizations. The Resource Center will also provide AT and environmental access technical assistance to community-based organizations and will foster cooperation among the funded projects. These community-based research projects will broaden the inclusion of persons with disabilities in developing practical and affordable solutions to AT and environmental access problems and needs.

In recent years, a number of NIDRR grant competitions have led to research projects and activities that aim at improving access to AT and reducing environmental barriers. For many years, NIDRR funded grants to States under the Technology-Related Assistance for Individuals with Disabilities Act of 1988 (Tech Act). In addition to research programs under title II of the Rehabilitation Act of 1973, as amended (29 U.S.C. 796) (the Rehabilitation Act), NIDRR now has responsibility for AT programs under the Assistive Technology Act of 1998 (AT Act), which replaced the Tech Act. A June 5, 2000 notice (65 FR 35768–35774) for a new Alternative Financing Program under title III of the AT Act identified numerous issues affecting access of people with disabilities to AT. An April 5, 1999 notice (64 FR 16531) under NIDRR's Rehabilitation Engineering Research Center (RERC) program discussed the importance of improving access to the environment through universal design. For information on ongoing and completed NIDRR-supported activities in these areas, contact the National Rehabilitation Information Center at or telephone 1–800–346–2742.

This year, NIDRR anticipates awarding a number of projects related to AT and environmental access. For updates on the status of announcements please see the Education Department Forecast of Funding Opportunities under Department of Education Discretionary Grant Programs for FY 2001 at: *http://ocfo.ed.gov/grntinfo/forecast/forecast.htm*

According to the Rehabilitation Act, the purpose of IL programs is ''to promote a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual empowerment, equal access, and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society.'' The concepts in this philosophy of consumer control, peer support, and self-help place these title VII independent living centers (CILs) within a broader world-wide grouping known as ''community-based'' organizations.

The term ''community-based'' organization has varying meanings in disability and rehabilitation programs and in social research. For the purpose of these two priorities, a ''community-based disability organization'' is a consumer-directed community organization such as a CIL. Consumer control is the key. Some community rehabilitation service organizations, for example psychosocial rehabilitation programs, also value consumer direction. Other disability-related organizations are located in community settings, but do not have significant consumer direction. Section 7 of the Rehabilitation Act, for example, identifies community rehabilitation programs as providers of AT devices and services for persons with disabilities, but such organizations may or may not be consumer directed. Organizations with consumer direction, including CILs and other organizations such as protection and advocacy (P&A) agencies, are in a unique position to help identify and study the specific needs for AT and environmental access of individuals from diverse populations and therefore are the focus of this research effort.

A number of private foundations and international agencies have identified the value of investing in ''grassroots'', consumer-directed organizations, particularly in public health and economic development. These organizations aim at reducing poverty or specific diseases such as HIV/AIDS, or they provide assistance to special needs groups such as people in troubled urban and rural areas (see the World Wide Web sites or publications of the Pew Fund for Health and Human Services *http://www.pewtrusts.com/*, the World Health Organization *http://www.who.int/*, and the Robert Wood Johnson Foundation *http://www.rwjf/org/index.jsp* for examples).

Community-based research encompasses a broad set of research activities with differing, and sometimes competing, concepts and methods. Sociology, anthropology, community psychology and public health, for example, use applied community research methods. For the purpose of these two proposed priorities, community-based research is intensive, systematic study directed toward new or full scientific knowledge or understanding of AT or environmental access problems. In addition, the research must be completed in the community under the direction of community-based disability organizations (Sclove, R.E, Scammell, M.L. & Holland, B. (1998). Community-based Research in the U.S. Amherst, MA: The Loka Institute (*http://www.loka.org/*)).

Community-based disability and rehabilitation research puts primary emphasis on assisting persons with

disabilities by producing and disseminating knowledge and technology and promoting and advancing the rehabilitation and integration process at the community level. Community-based disability and rehabilitation research, according to these two priorities, applies to the use of, or need for, AT devices and services by persons with disabilities in the community, and related issues of environmental access. Such research should be performed by qualified researchers in cooperation with community-based disability organizations. NIDRR supports the notion that persons with disabilities provide unique perspectives about living with disability and must be included in community-based research projects to the greatest possible extent. Their experience with, and interest in, finding practical solutions to problems encountered in home, school, place of work, and community make them informed participants, if not particularly qualified researchers. To ensure that technology-related problems relevant to persons with disabilities are studied, contributions from such persons are encouraged. In addition, university-based research on disability needs to be complemented by community-based research to provide the community with useful and immediate tools, technologies, and knowledge for overcoming barriers to access and participation in economy and society.

Community-based rehabilitation research is particularly suited for persons with disabilities. According to the University of Washington School of Public Health and Community Medicine's Principles of Community-Based Research, a research partnership between a university and community-based organizations should accomplish the following:

- Community partners should be involved at the earliest stages of the project, helping to define research objectives and having input into how the project will be organized.
- Community partners should have real influence on project direction—that is, enough leverage to ensure that the original goals, mission, and methods of the project are observed.
- Research processes and outcomes should benefit the community. Community members should be hired and trained whenever possible and appropriate, and the research should help build and enhance community assets.
- Community members should be part of the analysis and interpretation of data and should have input into how the results are distributed. This does not imply censorship of data or of publication, but rather the opportunity to make clear the community's views about the interpretation prior to final publication.
- Productive partnerships between researchers and community members should be encouraged to last beyond the life of the project. This will make it more likely that research findings will be incorporated into ongoing community programs and therefore provide the greatest possible benefit to the community from research.
- Community members should be empowered to initiate their own research projects that address needs they identify themselves.

Priority 3: Resource Center for Community-Based Disability and Rehabilitation Research Projects on Technology for Independence

There is a need for capacity-building on conceptual and methodological approaches to research on the involvement of community-based organizations of people with disabilities in promoting technology for independence. There is need for training, technical assistance, and dissemination efforts to guide ongoing efforts. Advice and strategies are needed in specific areas including, but not limited to, research designs and methodologies, case studies, focus group research, AT and environmental assessment, small sample surveys, participant observation, ethnography, and participatory action research. There is a need to develop ''how-to-do'' materials on disability-related AT and environmental access community-based research, reference resources, web-based access to materials, and other means of communicating knowledge about community-based rehabilitation research in the U.S.

Priority 3

We will establish a resource center to assist Disability and Rehabilitation Research Projects on Technology for Independence and other related NIDRR activities under the Plan with capacity-building for improving the involvement of community-based organizations of people with disabilities in promoting technology for independence.

In carrying out these purposes, the project must:

(a) Establish and conduct a significant and substantial resource program on capacity-building in research, training, and TA on the involvement of community-based disability organizations in promoting technology for access and function that will contribute to the advancement of knowledge in accordance with the Plan.

(b) Disseminate findings from the Resource Center's program on community-based research to DRRPs on Technology for Independence and other related NIDRR-funded activities under the Plan; and

(c) Describe how the resource center will develop research capacity among individuals with disabilities at the community level.

In addition to the activities proposed by the applicant to carry out these purposes, the Resource Center must:

- Involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing the research, training, and dissemination activities, and in evaluating the Center;
- Coordinate with appropriate federally funded projects. Coordination responsibilities will be identified through consultation with the NIDRR project officer and may include outreach to specific NIDRR DRRPs, RERCs, RRTCs, DBTACs and AT Projects; Office of Special Education technology projects and Parent Training and Information Centers; and Rehabilitation Services Administration training, special demonstration, and IL projects;
- Convene a formative review session within six months of project award with the DRRPs on Technology for Independence to assist these community-based rehabilitation researchers in the finalization of their research plans, and to help them with the commencement of their research projects; and
- Conduct a state-of-the-science conference, including the DRRPs on Technology for Independence, in the third year of the grant and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant.

Priority 4: Community-Based Disability and Rehabilitation Research Projects on Technology for Independence

The Plan identifies disability in terms of the relationship between the individual and the natural, built, cultural, and social environments (63 FR 57189–57219). The Plan focuses on both individual and systemic factors that have an impact on the ability of people to function. The elements of the Plan include employment outcomes, health and function, technology for access and function, and IL and community integration. To attain the goals in these areas, the Plan also includes capacity building for research and training, and to ensure knowledge dissemination and utilization. Each area

of the Plan includes objectives at both the individual and system levels. For example, the technology for access and function area of the Plan includes research objectives to develop AT that supports people with disabilities to function and live independently and obtain better employment outcomes, and research objectives to promote improved access to the built environment and concepts of universal design. It is clear that the challenges and opportunities for AT and improved environmental access reflect all of the priority areas of the Plan.

Priority 4

We will establish research projects to involve community-based disability organizations in AT and environmental access research leading to practical and affordable solutions to identified problems and needs, and building research capacity at the community level and in community-based organizations serving persons with disabilities.

In carrying out these purposes, a project must:

(a) From the examples of research objectives below, conduct a significant and substantial research program on the involvement of community-based disability organizations in promoting technology for access and function that will contribute to the advancement of knowledge in accordance with the Plan by:

• Investigating and developing research questions, methodologies, and recommendations for use by other research entities in solving technology-related, engineering, psychosocial, economic and other problems at the individual and systems levels, in the United States (U.S.); and

• Designing and testing models for partnership of community-based disability organizations in research, participant observation studies and other qualitative and quantitative research approaches to using technology in community-based settings;

(b) Disseminate findings from community-based research to persons with disabilities, their representatives, disability and rehabilitation service providers, researchers, planners, and policy makers; and

(c) Describe how the applicant will develop research capacity among individuals with disabilities at the community level.

In carrying out these purposes, the project must:

• Coordinate with appropriate federally funded projects. Coordination responsibilities will be identified through consultation with the NIDRR project officer and may include outreach to specific NIDRR DRRPs, RERCs, Rehabilitation Research and Training Centers (RRTCs), Disability Business Technical Assistance Centers (DBTACs) and AT Projects; Office of Special Education technology projects and Parent Training and Information Centers; and Rehabilitation Services Administration training, special demonstration, and IL projects.

• Involve individuals with disabilities in key decision-making.

• Participate in a formative review session to be convened by the Resource Center within six months of award, and cooperate with the Resource Center's capacity-building and evaluation activities.

• Participate in a state-of-the-science conference in the third year of the grant.

Selection Criteria

The selection criteria to be used for these competitions will be provided in the application package for each competition.

Applicable Program Regulations: 34 CFR part 350.

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(Catalog of Federal Domestic Assistance Numbers 84.133A, Disability Rehabilitation Research Project)

Program Authority: 29 U.S.C. 762(g) and 764(b).

Dated: June 20, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–15959 Filed 6–25–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133A]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research

ACTION: Notice inviting applications for fiscal year (FY) 2001 new awards and announcement of pre-application meetings.

SUMMARY: We invite applications for new FY 2001 grant awards for four Disability and Rehabilitation Research Projects and Centers Program (DRRP) on: (1) Assistive Technology Outcomes and Impacts, (2) Assistive Technology Research Projects for Individuals with Cognitive Disabilities, (3) Resource Center for Community-based Research on Technology for Independence, and (4) Community-based Research Projects on Technology for Independence.

Purpose of the Program

The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973. We take this action to focus research attention on an area of national need. The priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

National Education Goals

The eight National Education Goals focus the Nation's education reform efforts and provide a framework for improving teaching and learning.

This notice addresses the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Applicable Regulations

The Education Department General Administrative Regulations (EDGAR), 34 CFR Part 74, 75, 77, 80, 81, 82, 85, 86 and 97; and the following program regulations: Disability Rehabilitation Research Projects and Centers—34 CFR part 350, and the Notice of Final Priority published elsewhere in this issue of the **Federal Register**.

Pre-Application Meeting

Interested parties are invited to participate in pre-application meetings to discuss the funding priorities. In each meeting you will receive technical assistance and information about the funding priority. You may attend the

meetings either in person or by conference call at the Department of Education, Office of Special Education and Rehabilitative Services, Switzer Building, Room 3065, 330 C St. SW., Washington, DC between 10:00 a.m. and 12 noon. NIDRR staff will also be available at this location from 1:30 p.m. to 4:00 p.m. on that same day to provide technical assistance through individual consultation about the funding priority.

Pre-Application Meeting Dates

The pre-application meeting for both the Resource Center for Community-based Research on Technology for Independence and Community-based Research Projects on Technology for Independence priorities will be held on July 11, 2001. For further information or to make arrangements to attend the July 11, 2001 meeting contact Dawn Carlson, Switzer Building, room 3421, 400 Maryland Avenue, SW., Washington, DC 20202. Internet: Dawn.Carlson@ed.gov Telephone (202) 401–2068. If you use a telecommunication device for the deaf (TDD), you may call (202) 205–4475.

The pre-application meeting for the Assistive Technology Outcomes and Impacts priority will be held on July 17, 2001. For further information or to make arrangements to attend the July 17, 2001 meeting contact Donna Nangle, Switzer Building, room 3414, 400 Maryland Avenue, SW., Washington, DC 20202. Internet: Donna.Nangle@ed.gov Telephone (202) 205–5880. If you use a telecommunication device for the deaf (TDD), you may call (202) 205–4475.

The pre-application meeting for the Assistive Technology Research Projects for Individuals with Cognitive Disabilities priority will be held on July 18, 2001. For further information or to make arrangements to attend the July 18, 2001 meeting contact Roseann Rafferty, Switzer Building, room 3428, 400 Maryland Avenue, SW., Washington, DC 20202. Internet: Roseann.Rafferty@ed.gov Telephone (202) 205–5867. If you use a telecommunication device for the deaf (TDD), you may call (202) 205–4475.

Assistance to Individuals With Disabilities at the Public Meetings

The meeting site is accessible to individuals with disabilities, and a sign language interpreter will be available. If you need an auxiliary aid or service other than a sign language interpreter in order to participate in the meeting (e.g., other interpreting service such as oral, cued speech, or tactile interpreter; assistive listening device; or materials in alternative format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after this date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

APPLICATION NOTICE FOR FISCAL YEAR 2001—DISABILITY AND REHABILITATION RESEARCH PROJECTS, CFDA NO. 84–133A

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
84.133A–4, Assistive Technology Outcomes and Impacts	August 15, 2001	2	$450,000	60
84.133A–6, Assistive Technology Research Projects for Individuals with Cognitive Disabilities.	August 15, 2001	3	300,000	60
84.133A–5, Resource Center for Community-based Research on Technology for Independence.	August 15, 2001	1	300,000	60
84.133A–7, Community-based Research Projects on Technology for Independence.	August 15, 2001	3	300,000	60

***Note:** The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount in any year (See 34 CFR 75.104(b)).

Note: The estimate of funding level and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Eligible Applicants

Parties eligible to apply for grants under this program are States, public or private agencies, including for-profit agencies, public or private organizations, including for-profit organizations, institutions of higher education, and Indian tribes and tribal organizations.

Selection Criteria

The selection criteria to be used for these competitions will be provided in the application package for each competition.

For Applications Contact

Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs via its Web site: http://www.ed.gov/pubs/edpubs.html or its E-mail address (edpubs@inet.ed.gov). If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.133A.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Services (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3414, Switzer Building, Washington, DC 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–4475. Internet: Donna.Nangle@ed.gov.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, or computer diskette) on request to the contact person listed in the preceding paragraph.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

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Program Authority: 29 U.S.C. 762(g) and 764(b).

Dated: June 20, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–15960 Filed 6–25–01; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Tuesday,
June 26, 2001

Part V

Department of Education

34 CFR Parts 675, 676, and 692
Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partnership Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 675, 676, and 692

Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partnership Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Federal Work-Study (FWS), Federal Supplemental Educational Opportunity Grant (FSEOG), and Special Leveraging Educational Assistance Partnership (SLEAP) programs are authorized under the Higher Education Act of 1965 as amended (HEA). We amend the regulations for the FWS, FSEOG, and SLEAP programs to conform them to statutory changes made to the HEA.

DATES: These regulations are effective July 1, 2001.

FOR FURTHER INFORMATION CONTACT:

1. For the FWS and FSEOG programs: Ms. Kathy Gause, U.S. Department of Education, 400 Maryland Avenue, SW., Regional Office Building 3, Room 3045, Washington, DC 20202–5447. Telephone: (202) 708–8242.

2. For the SLEAP Program: Ms. Jackie Butler, U.S. Department of Education, 400 Maryland Avenue, SW., Regional Office Building 3, Room 3045, Washington, DC 20202–5447. Telephone: (202) 708–8242.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed under this heading.

SUPPLEMENTARY INFORMATION:

FWS and FSEOG Programs

We amend the regulations for the FWS and FSEOG programs to conform them to statutory changes made to the HEA by the Higher Education Amendments of 1998, Public Law 105–244. Institutions participating in the FWS and FSEOG programs normally are required to pay an institutional share under each program. However, certain institutions are eligible for a waiver of those institutional share responsibilities. Prior to the Higher Education Amendments of 1998, the institutions that were eligible for a waiver were those that qualified as eligible institutions under the institutional development programs authorized under Title III of the HEA. The regulations for the FWS and FSEOG programs identified those Title III, HEA programs in §§ 675.26(d)(2)(i)(A) and 676.21(b)(1), respectively.

The Higher Education Amendments of 1998 moved one of the programs, the Developing Hispanic-Serving Institutions Program, from Title III to Title V of the HEA. It also added two new programs to Title III, the American Indian Tribally Controlled Colleges and Universities Program and the Alaska Native and Native Hawaiian-Serving Institutions Program. We have amended §§ 675.26(d)(2)(i)(A) and 676.21(b)(1) to reflect those statutory changes.

SLEAP Program

We amend the regulations for the SLEAP Program to conform them to statutory changes made to the HEA by section 316 of the ''Department of Education Appropriations Act, 2001,'' Title III of the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, as enacted by section 1(a)(1) of Pub. L. 106–554, the ''Consolidated Appropriations Act 2001.''

The SLEAP Program, a component of the Leveraging Educational Assistance Partnership (LEAP) Program, was added by the Higher Education Amendments of 1998. On November 1, 2000, we published final regulations for the SLEAP Program. However, on December 21, 2000, section 316 of the ''Department of Education Appropriations Act, 2001'' was enacted which:

- Eliminated the SLEAP authorized activities that provided services to preschool, elementary school, and secondary school students;
- Combined and clarified the existing SLEAP authorized activities for postsecondary students;
- Added a special rule to ensure that the SLEAP Program generates new need-based State funds in excess of the amount the State spent for need-based programs in the 1999–2000 award year (the year before the start of the SLEAP Program); and
- Prohibited the use of SLEAP Program funds to pay any administrative costs.

We have amended §§ 692.50, 692.52, 692.53, 692.54, 692.60 and 692.71, and have added § 692.72, to reflect these statutory changes.

Waiver of Proposed Rulemaking and Negotiated Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes, correct cross-references, and remove obsolete regulatory provisions. The changes do not establish or affect substantive policy. Therefore, the Secretary has concluded that these regulations are technical in nature and do not necessitate public comment. Therefore, under 5 U.S.C. 553(b)(B), the Secretary has determined that proposed regulations are unnecessary and contrary to the public interest. The Secretary also waives the 30-day delayed effective date under 5 U.S.C. 553(d)(3).

For the same reasons, the Secretary has determined, under section 492(b)(2) of the HEA, that these regulations should not be subject to negotiated rulemaking.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. Although States and State agencies are impacted by these regulations, they are not defined as ''small entities'' in the Regulatory Flexibility Act. These regulations contain technical amendments designed to clarify and correct current regulations. The changes will not have a significant economic impact on the institutions, State or State agencies affected.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Intergovernmental Review

The FSEOG and SLEAP programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

The FWS Program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

Based on our own review, we have determined that these final regulations do not require transmission of information that any other agency or

authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.033 Federal Work-Study Program; 84.069 Leveraging Educational Assistance Partnership Program.)

List of Subjects

34 CFR Parts 675 and 676

Colleges and universities, Employment, Grant programs-education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 692

Grant programs—education, Postsecondary education, State administered—education, Student aid—education, Reporting and recordkeeping requirements.

Dated: June 21, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

For the reasons stated in the preamble, the Secretary amends title 34 of the Code of Federal Regulations by amending parts 675, 676, and 692 as follows:

PART 675—FEDERAL WORK-STUDY PROGRAMS

1. The authority citation for part 675 continues to read as follows:

Authority: 42 U.S.C. 2751–2756b, unless otherwise noted.

2. Section 675.26 is amended by revising paragraph (d)(2)(i)(A) and the section authority to read as follows:

§ 675.26 FWS Federal share limitations.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(A) Is designated as an eligible institution under—

(*1*) The Developing Hispanic-Serving Institutions Program (34 CFR part 606);

(*2*) The Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, or Alaska Native and Native Hawaiian-Serving Institutions Program (34 CFR part 607);

(*3*) The Strengthening Historically Black Colleges and Universities Program (34 CFR part 608); or

(*4*) The Strengthening Historically Black Graduate Institutions Program (34 CFR part 609); and

* * * * *

(Authority: 20 U.S.C. 1068d and 1103d; 42 U.S.C. 2753)

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

3. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

4. Section 676.21 is amended by revising paragraph (b)(1) and the section authority to read as follows:

§ 676.21 FSEOG Federal share limitations.

* * * * *

(b) * * *

(1) Is designated as an eligible institution under—

(i) The Developing Hispanic-Serving Institutions Program (34 CFR part 606);

(ii) The Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, or Alaska Native and Native Hawaiian-Serving Institutions Program (34 CFR part 607); or

(iii) The Strengthening Historically Black Colleges and Universities Program (34 CFR part 608); and

* * * * *

(Authority: 20 U.S.C. 1068d, 1103d, and 1070b–2)

PART 692—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

5. The authority citation for part 692 continues to read as follows:

Authority: 20 U.S.C. 1070c through 1070c–4, unless otherwise noted.

6. Section 692.50 is revised to read as follows:

§ 692.50 What is the Special Leveraging Educational Assistance Partnership Program?

The Special Leveraging Educational Assistance Partnership (SLEAP) Program assists States in providing grants, scholarships, and community service work-study assistance to eligible students who attend institutions of higher education and demonstrate financial need.

(Authority: 20 U.S.C. 1070c–3a)

7. Section 692.52 is revised to read as follows:

§ 692.52 What definitions apply to the SLEAP Program?

The definitions listed in § 692.4 apply to the SLEAP Program.

(Authority: 20 U.S.C. 1070c–3a)

8. Section 692.53 is amended by revising paragraph (c) to read as follows:

§ 692.53 What requirements must a State satisfy to receive SLEAP Program funds?

* * * * *

(c) Have a program that satisfies the requirements in § 692.21(a), (b), (d), (e), (f), (g), (j), and (k).

9. Section 692.54 is revised to read as follows:

§ 692.54 What eligibility requirements must a student satisfy to participate in the SLEAP Program?

To receive assistance under the SLEAP Program, a student must meet the eligibility requirements contained in § 692.40.

(Authority: 20 U.S.C. 1070c–3a)

10. Section 692.60 is amended by revising paragraph (b); redesignating paragraphs (c) and (d) as paragraphs (d) and (e) respectively; and adding a new paragraph (c) to read as follows:

§ 692.60 What must a State do to receive an allotment under the SLEAP Program?

* * * * *

(b) Identify the activities in § 692.71 for which it plans to use the SLEAP Federal and non-Federal funds;

(c) Ensure that the non-Federal funds used as matching funds represent dollars that are in excess of the total dollars that a State spent for need-based grants, scholarships, and work-study assistance for fiscal year 1999, including the State funds reported as part of its LEAP Program;

* * * * *

11. Section 692.71 is revised to read as follows:

§ 692.71 What activities may be funded under the SLEAP Program?

A State may use the funds it receives under the SLEAP Program for one or more of the following activities:

(a) Supplement LEAP grant awards to eligible students who demonstrate financial need by—

(1) Increasing the LEAP grant award amounts for students; or

(2) Increasing the number of students receiving LEAP grant awards.

(b) Supplement LEAP community service work-study awards to eligible students who demonstrate financial need by—

(1) Increasing the LEAP community service work-study award amounts for students; or

(2) Increasing the number of students receiving LEAP community service work-study awards.

(c) Award scholarships to eligible students who demonstrate financial need and who—

(1) Demonstrate merit or academic achievement; or

(2) Wish to enter a program of study leading to a career in—

(i) Information technology;

(ii) Mathematics, computer science, or engineering;

(iii) Teaching; or

(iv) Other fields determined by the State to be critical to the State's workforce needs.

(Authority: 20 U.S.C. 1070c–3a)

12. Section 692.72 is added to read as follows:

§ 692.72 May a State use the funds it receives under the SLEAP Program to pay administrative costs?

A State may not use any of the funds it receives under the SLEAP Program to pay any administrative costs.

(Authority: 20 U.S.C. 1070c–3a)

[FR Doc. 01–16006 Filed 6–25–01; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Tuesday,
June 26, 2001

Part VI

Securities and Exchange Commission

17 CFR Parts 240, 248, and 249
Registration of Broker-Dealers Pursuant to Section 15(b)(11) of the Securities Exchange Act of 1934; Proposed Rules

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240, 248, and 249

[Release No. 34–44455; File No. S7–13–01]

RIN 3235–AI21

Registration of Broker-Dealers Pursuant to Section 15(b)(11) of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is publishing for comment proposed rules to implement certain provisions of the Commodity Futures Modernization Act of 2000 (''CFMA''). First, the Commission is proposing amendments to its broker-dealer registration requirements and to Form BD. These amendments would implement section 203 of the CFMA, which permits futures commission merchants and introducing brokers that are registered with the Commodity Futures Trading Commission (''CFTC'') to register as broker-dealers for the limited purpose of effecting transactions in certain security futures products by filing a notice with the Commission.

Second, the Commission is proposing a conditional exemption from registration under section 15(a) of the Securities Exchange Act of 1934. The proposed exemption would provide guidance on the extent to which a broker-dealer registered by notice may trade security futures products. Under the proposed exemption, a broker-dealer registered by notice would be able to trade any security futures products as long as it did not become a member of a registered national securities exchange or national securities association.

Third, the Commission is proposing amendments to Regulation S–P, which was adopted under the Gramm-Leach-Bliley Act. These amendments would revise certain provisions of Regulation S–P in light of section 124 of the CFMA, which makes the privacy provisions of the Gramm-Leach-Bliley Act applicable to activity regulated by the CFTC. These amendments would also allow futures commission merchants and introducing brokers registered by notice with the Commission as broker-dealers to comply with Regulation S–P by complying with the CFTC's financial privacy rules.

DATES: Comments must be submitted on or before July 26, 2001.

ADDRESSES: Interested persons should submit three copies of their written data, views, and opinions to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–13–01; this file number should be used on the subject line if e-mail is used. Comment letters will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's website (*http://www.sec.gov*). Personal identifying information, such as names or e-mail addresses, will not be edited from electronic submission. Submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Chief Counsel, Theodore R. Lazo, Special Counsel, Brice D. Prince, Attorney, or Christina K. McGlosson, Attorney, at 202/942–0073, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Commission today is proposing Rules 15a–10, 15b11–1, and 15b11–2 under the Securities Exchange Act of 1934 (''Exchange Act''),[1] and amendments to Rule 15b2–2 under the Exchange Act [2] and to Form BD to provide for the registration by notice of certain broker-dealers for the limited purpose of effecting transactions in certain security futures products. In addition, the Commission is proposing amendments to Regulation S–P [3] in light of the CFMA's application of the privacy provisions of the Gramm-Leach-Bliley Act (''GLBA'') to the CFTC and its regulated entities.

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I. Introduction

A. Security Futures Products

The CFMA permits the trading of security futures, *i.e.*, futures contracts on individual securities and on narrow-based security indexes.[4] The CFMA defines security futures both as ''securities'' under the federal securities laws,[5] and as futures contracts for purposes of the Commodity Exchange Act (''CEA'').[6] Accordingly, the CFMA establishes a regulatory framework under which the Commission and the CFTC have joint jurisdiction over the intermediaries and markets that trade security futures products.

Because they are subject to regulation both as securities and as futures contracts, security futures products

[1] 17 CFR 240.15a–10, 240.15b11–1, and 240.15b11–2.

[2] 17 CFR 240.15b2–2.

[3] 17 CFR Part 248.

[4] Pub. L. No. 106–554, 114 Stat. 2763. Under Exchange Act section 3(a)(55)(A), the term ''security future'' is defined as a contract of sale for future delivery of a single security or of a narrow-based security index. 15 U.S.C. 78c(a)(55)(A). Under Exchange Act section 3(a)(56), the term ''security futures product'' is defined as a security future or an option on a security future. 15 U.S.C. 78c(a)(56).

[5] *See, e.g.,* Exchange Act section 3(a)(10), 15 U.S.C. 78c(a)(10).

[6] The term ''security future'' is defined in CEA section 1a(31) (7 U.S.C. 1a(31)) as a contract of sale for future delivery of a single security or of a narrow-based security index. Under CEA section 1a(33) (7 U.S.C. 1a(33)), the term ''security futures product'' is defined as a security future or an option on a security future.

must be traded on trading facilities and through intermediaries that are registered with both the Commission and the CFTC. In order to avoid duplicative regulation, however, the CFMA establishes a system of notice registration under which trading facilities and intermediaries that are already registered with either the Commission or the CFTC may register with the other agency on an expedited basis for the limited purpose of trading security futures products. Specifically, markets and intermediaries that are registered with one agency may register with the other by submitting a written notice that is effective upon filing.[7] A ''notice registrant'' is then subject to the primary oversight by one agency, and is exempted under the CFMA from all but the core provisions of the laws administered by the other agency.

Exchange Act section 15(b)(11) provides for the notice registration of broker-dealers for the limited purpose of effecting transactions in certain security futures products (''Security Futures Product Broker-Dealers''). We are proposing Rules 15b11–1, 15b11–2, and 15a–10 under the Exchange Act to establish the procedure for notice registration of Security Futures Product Broker-Dealers. Proposed Rule 15b11–1 would provide the terms and conditions under which futures commission merchants and introducing brokers that are registered with the CFTC (collectively, ''CFTC Registrants'') could use the notice registration provisions.[8] In addition, Proposed Rule 15b11–1 would provide that a CFTC Registrant eligible for notice registration must file the notice on Form BD. Proposed Rule 15b11–2 would provide that a Security Futures Product Broker-Dealer could apply to become registered under Exchange Act section 15(b)(1), and therefore conduct business in securities other than security futures products, by filing an amendment to its Form BD.

Proposed Rule 15a–10 would permit Security Futures Product Broker-Dealers to trade security futures products regardless of the market on which they are listed or traded. Under the proposed rule, a Security Futures Product Broker-Dealer would be permitted, subject to certain conditions, to act as a broker or a dealer in security futures products traded on any national securities exchange, national securities association, or alternative trading system[9] without being subject to the registration requirements of Exchange Act section 15(a)(1).[10]

In addition, we are proposing amendments to Form BD. The proposed amendments would elicit information as to whether Security Futures Product Broker-Dealers satisfy the conditions for notice registration. The proposed amendments are also intended to inform the Commission about all registered broker-dealers' activities in security futures products.

We are also proposing to amend Exchange Act Rule 15b2–2,[11] which provides that broker-dealers must be inspected by a self-regulatory organization within six months of becoming registered. The proposed amendment would provide an exception from this requirement for Security Futures Product Broker-Dealers.

B. Privacy

Section 124 of the CFMA amended the CEA to provide that Title V of the GLBA applies to the CFTC and certain of the entities that it regulates. We adopted Regulation S–P to implement Title V of the GLBA in June 2000, before the CFMA was enacted.[12] As a result, certain provisions of Regulation S–P do not reflect section 124 of the CFMA, which amended the CEA. In light of these amendments, we are proposing amendments to update Regulation S–P.

II. Discussion of Proposed Rulemaking

A. Notice Registration of Broker-Dealers to Conduct Business in Security Futures Products

Security futures are expressly defined as securities under the Exchange Act.[13] As a result, for purposes of the Exchange Act, any person who is engaged in the business of effecting transactions in security futures products for the account of another is a broker.[14] Similarly, any person who is engaged in the business of buying and selling security futures products for the person's own account is a dealer.[15] With limited exceptions, brokers and dealers are required by Exchange Act section 15(a) to register with the Commission.[16]

The CFMA amended the broker-dealer registration requirements with respect to certain security futures products by adding section 15(b)(11) to the Exchange Act.[17] Section 15(b)(11)(A) provides that a broker or dealer required to register with the Commission only because it effects transactions in security futures products on an exchange registered pursuant to Exchange Act section 6(g) (''Security Futures Product Exchange'')[18] may register by filing a written notice with the Commission.[19] We are proposing Exchange Act Rules 15b11–1, 15b11–2, and 15a–10 to establish the procedure for submitting that notice to the Commission, and to provide guidance on the extent to which a Security Futures Product Broker-Dealer may act as a broker or a dealer in security futures products.

1. Proposed Rule 15b11–1 under the Exchange Act: Procedure for Notice Registration

Proposed Rule 15b11–1 would specify how a CFTC Registrant could register with the Commission by notice to effect transactions in security futures products. Specifically, the proposed rule would provide that a CFTC Registrant must file Form BD to become a Security Futures Product Broker-Dealer pursuant to Exchange Act section 15(b)(11)(A).[20]

Form BD is the uniform application form for traditional broker-dealer

[7] *See* Exchange Act sections 6(g) and 15(b)(11) (15 U.S.C. 78f(g) and 78o(b)(11)) and CEA sections 5f and 4f(a)(2) (7 U.S.C. 7b–1 and 6f(a)(2)).

[8] When used in this release, the terms ''futures commission merchant'' and ''introducing broker'' have the meanings in CEA sections 1a(20) and 1a(23) (7 U.S.C. 1a(20) and 1a(23)), respectively.

[9] The term ''alternative trading system'' is defined in section 300(a) of Regulation ATS (17 CFR 242.300(a)).

[10] 15 U.S.C. 78o(a)(1). Section 15(a)(1) provides that a broker or dealer must be registered pursuant to section 15(b) in order to ''effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commerical paper, bankers' acceptances, or commercial bills) . . . .''

[11] 17 CFR 240.15b2–2.

[12] 17 CFR part 248. *See* Securities Exchange Act Release No. 42905 (June 22, 2000), 65 FR 40334.

[13] Exchange Act section 3(a)(10), 15 U.S.C. 78c(a)(10).

[14] *See* Exchange Act section 3(a)(4), 15 U.S.C. 78c(a)(4).

[15] *See* Exchange Act section 3(a)(5), 15 U.S.C. 78c(a)(5).

[16] 15 U.S.C. 78o(a).

[17] 15 U.S.C. 78o(b)(11).

[18] Exchange Act section 6(g) (15 U.S.C. 78f(g)) provides that designated contract markets and derivatives transaction execution facilities that are registered with the CFTC under CEA sections 5 and 5a (7 U.S.C. 7 and 7a), respectively, may register by notice with the Commission to trade security futures products as a Security Futures Product Exchange. We have proposed rules to establish the procedures for such notice registration. *See* Securities Exchange Act Release No. 44279 (May 8, 2001), 66 FR 26978.

[19] Section 15(b)(11)(A) further states that the written notice filed with the Commission must be in such form and contain such information concerning such broker or dealer and any persons associated with such broker or dealer as the Commission by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

[20] Form BD is filed with the Central Registration Depository (''CRD''), which is operated and maintained by the National Association of Securities Dealers, Inc. (''NASD''). When a Form BD is filed with the CRD, the information on the form is entered into the CRD and then transmitted electronically to the Commission. Even though Form BD is not filed directly with the Commission, it is considered a ''report'' filed with the Commission for purposes of Exchange Act sections 15(b), 17(a), 18(a), 32(a) (15 U.S.C. 78o(b), 78q(a), 78r(a), 78ff(a)), and other applicable provisions of the Exchange Act.

registration used by the Commission, state securities regulators, and self-regulatory organizations.[21] Form BD requires an applicant to provide information concerning the nature of its business, as well as information regarding its principals, controlling persons, and employees. In addition, Form BD is designed to permit the Commission to determine whether the applicant meets the statutory requirements to engage in the securities business.

Under Exchange Act section 15(b)(11), however, Security Futures Product Broker-Dealers will not be subject to the same statutory requirements as other applicants for broker-dealer registration. In particular, a complete application for notice registration will be effective upon filing.[22] In addition, a Security Futures Product Broker-Dealer will be exempt from certain provisions of the Exchange Act with respect to transactions in security futures products.[23] In light of this alternative registration and regulatory scheme, section 15(b)(11) provides several conditions for notice registration. First, the Security Futures Product Broker-Dealer must be registered with the CFTC as a futures commission merchant or as an introducing broker.[24] Second, the Security Futures Product Broker-Dealer must be a member of the National Futures Association (''NFA'') or another national securities association registered pursuant to Exchange Act section 15A(k).[25] Third, the Security Futures Product Broker-Dealer must limit its business in securities to security futures products that are listed or traded on Security Futures Product Exchanges, except to the extent that it is permitted to conduct business in other types of securities without registering as a broker-dealer.[26] Proposed Rule 15b11–1(b) would require a broker-dealer registering by notice to indicate where appropriate on Form BD that it meets the conditions for notice registration.[27]

Under Exchange Act section 15(b)(11)(A)(iv), the registration of a Security Futures Product Broker-Dealer will terminate by operation of law if it is no longer registered with the CFTC or is no longer a member of the NFA.[28] In addition, Security Futures Product Broker-Dealers will be subject to Exchange Act Rule 15b3–1,[29] which requires a registered broker-dealer to promptly file an amendment to its Form BD if any of the information contained in the form is or becomes inaccurate for any reason.[30] A Security Futures Product Broker-Dealer would be obligated under Rule 15b3–1 to amend its Form BD if it no longer met the statutory conditions for notice registration.

We request comment on Proposed Rule 15b11–1. Should CFTC Registrants be permitted to register by notice as Security Futures Product Broker-Dealers on a form other than Form BD? Can the Commission rely on information that CTFC Registrants file with the CFTC and the NFA if it needs information regarding Security Futures Product Broker-Dealers?

In addition, we note in general that Security Futures Product Broker-Dealers will be broker-dealers for purposes of the Exchange Act. As a result, they will be subject to the rules under the Exchange Act that apply to broker-dealers except for rules adopted under the sections of the Exchange Act from which Security Futures Product Broker-Dealers are exempted by Exchange Act section 15(b)(11)(B). We invite commenters to identify other rules that should not be applicable to Security Futures Product Broker-Dealers. Should the Commission amend any of its rules or use its exemptive authority to except or exempt Security Futures Product Broker-Dealers from any rule?

2. Proposed Rule 15b11–2 under the Exchange Act: Procedure for Application to Convert Registration

Proposed Rule 15b11–2 would permit a Security Futures Product Broker-Dealer to apply to become registered under Exchange Act section 15(b)(1) by filing an amendment to its Form BD.[31] The proposed rule would specify how a Security Futures Product Broker-Dealer may apply to become a full broker-dealer.[32] For example, a Security Futures Product Broker-Dealer that

[21] Form BD is the form filed by an applicant to become registered pursuant to Exchange Act section 15(b)(1). *See* Exchange Act Rule 15b1–1, 17 CFR 240.15b1–1. In addition, intrastate nonbank municipal securities dealers required to register under section 15B(a) must file an application for registration with the Commission on Form BD, as must government securities brokers and dealers required to register under Exchange Act section 15C(a). *See* Exchange Act Rules 15Ba2–2 and 15C2–1, 17 CFR 240.15Ba2–2 and 240.15Ca2–1.

[22] *See* Exchange Act section 15(b)(11)(A)(ii), 15 U.S.C. 78o(b)(11)(A)(ii). However, an application for notice registration will not take immediate effect if it is subject to suspension or revocation under Exchange Act section 15(b)(4). 15 U.S.C. 78o(b)(4). In addition, under Rule 202.3(b)(1) of the Commission's Procedural Rules (17 CFR 202.3), applications on Form BD that are not complete ''may be returned with a request for correction or held until corrected before being accepted as a filing.''

[23] Exchange Act section 15(b)(11)(B), 15 U.S.C. 78o(b)(11)(B). Specifically, a Security Futures Product Broker-Dealer will be exempt from sections 8, 11, 15(c)(3), 15(c)(5), 15B, 15C, and 17(d)–(i) of the Exchange Act (15 U.S.C. 78h, 78k, 78o(c)(3), 78o(c)(5), 78o–4, 78o–5, and 78q(d)(i)).

[24] As noted above, section 15(b)(11) provides that notice registration is available only to broker-dealers that fall within the registration requirements of section 15 by effecting transactions in security futures products on a Security Futures Product Exchange. CEA section 4d)(a)(1) (7 U.S.C. 6d(a)(1)) provides that futures commission merchants and introducing brokers must be registered with the CFTC before ''soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or derivatives transaction execution facility.''

[25] 15 U.S.C. 78o–3(k). Under section 15A(k), a futures association registered under CEA section 17 (7 U.S.C. 21) will become a registered national securities association for the limited purpose of regulating the activity of members who are Security Futures Product Broker-Dealers as long as the limited purpose national securities association implements certain rules and procedures. *See* Exchange Act section 15A(k)(2)(A)–(D) (15 U.S.C. 78o–3(k)(2)(A)–(D)). Our subsequent discussion refers specifically to the NFA, which is the only organization currently eligible to become a limited purpose national securities association. However, the discussion would apply equally to any other limited purpose national securities association.

[26] For example, Exchange Act Rules 3a43–1 and 3a44–1 (17 CFR 240.3a43–1 and 240.3a44–1) allow futures commission merchants that are registered with the CFTC to effect transactions in government securities that are incidental to their futures-related business without being considered government securities brokers or government securities dealers. As explained in more detail below, we are also proposing Rule 15a–10 under the Exchange Act, which would conditionally permit Security Futures Product Broker-Dealers to trade security futures products regardless of the market on which they are listed or traded without having to register under Exchange Act 15(b)(1) (15 U.S.C. 78o(b)(1)).

[27] As explained below, we are proposing to amend Form BD in order to elicit the information necessary to determine whether the broker-dealer meets the conditions for notice registration.

[28] In addition, Exchange Act section 15(b)(11)(A)(iii) provides that the registration of a Security Futures Product Broker-Dealer will be suspended immediately if its membership with the NFA is suspended.

[29] 17 CFR 240.15b3–1.

[30] The CFTC has issued a proposal to amend CEA Rule 3.10 (17 CFR 3.10) to provide for the notice registration of futures commission merchants and introducing brokers. *Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Broker-Dealers,* 66 FR 27476 (May 17, 2001). Under the CFTC's proposal, broker-dealers that are registered by notice with the CFTC would not be subject to Rule 3.10(d), which requires futures commission merchants and introducing brokers to file annually updated registration forms. We believe, however, that it is appropriate for Security Futures Product Broker-Dealers to keep the information in Form BD current. In addition, we believe that requiring Security Futures Product Broker Dealers to comply with Exchange Act Rule 15b3–1 is consistent with our authority under Exchange Act section 17(a) (15 U.S.C. 78q(a)) to prescribe reporting and recordkeeping requirements for broker-dealers, which is one of our sources of authority for rule 15b3–1.

[31] Broker-dealers registered under Exchange Act section 15(b)(1) (15 U.S.C. 78o(b)(1)) are referred to as ''full broker-dealers.''

[32] Alternatively, we could have required a Security Futures Product Broker-Dealer to submit a new Form BD and pursue a separate registration if it chose to apply to become a full broker-dealer. Because this alternative could be more costly and time consuming for applicants, we are not proposing to require it.

wanted to conduct business in securities other than security futures products could amend its Form BD to indicate that it planned to conduct additional securities business. This amended Form BD, therefore, would be an application for registration to conduct business as a full broker-dealer.[33]

Under Proposed Rule 15b11–2, the amendment to Form BD would be considered an application to become a full broker-dealer. The notice registration of a broker-dealer that filed an application by amendment under Proposed Rule 15b11–2 would remain effective while its application to become a full broker-dealer was pending. However, the broker-dealer would not be permitted to engage in securities business other than that permitted under section 15(b)(11) until it had satisfied all of the conditions under section 15(b) to become a full broker-dealer.[34]

Proposed Rule 15b11–2 would also provide that when the broker-dealer's registration pursuant to section 15(b)(1) became effective it would no longer be a Security Futures Product Broker-Dealer. Accordingly, the broker-dealer would no longer be eligible for the exemptions in section 15(b)(11)(B). As a result, the broker-dealer would be subject to all of the provisions of the Exchange Act and the regulations thereunder applicable to its activity, including its activity in security futures products. We request comment on Proposed Rule 15b11–2.

3. Proposed Rule 15a–10 under the Exchange Act: Conditional Exemption from Full Broker-Dealer Registration for Security Futures Product Broker-Dealers

Exchange Act section 15(b)(11)(A) provides that notice registration is available for ''a broker or dealer required to register only because it effects transactions in security futures products *on an exchange registered pursuant to section 6(g) [of the Exchange Act]* (emphasis added).'' Accordingly, notice registration is available to a CFTC registrant that would meet the definition of a broker or a dealer simply by effecting transactions in security futures products on a Security Futures Product Exchange.

We believe that the plain language of section 15(b)(11)(A) of the Exchange Act limits a Security Futures Product Broker-Dealer to effecting transactions in security futures products only on Security Futures Products Exchanges. Therefore, a Security Futures Product Broker-Dealer must be registered pursuant to Exchange Act section 15(b)(1) as a full broker-dealer in order to effect transactions in security futures products that are listed or traded on a national securities exchange registered pursuant to Exchange Act section 6(a) (''Registered National Securities Exchange'') [35] or on a national securities association registered pursuant to Exchange Act section 15A(a).[36]

We note that CEA section 4f(a)(2)[37] permits a full broker-dealer that registers by notice with the CFTC to trade security futures products on any designated contract market or derivatives trading execution facility, regardless of whether it is fully registered or registered by notice with the CFTC.[38] However, we believe that the two provisions were intentionally worded in different fashions because of the different regulatory structures for markets and intermediaries under the Exchange Act and the CEA.

In particular, we believe that these two provisions are distinct because the Exchange Act and the CEA provide different standards with respect to the ability of an intermediary to become a member of a market or an exchange. Specifically, Exchange Act section 6(b)(2) [39] provides that a Registered National Securities Exchange must permit any registered broker-dealer to become a member of the exchange. Similarly, Exchange Act section 15A(b)(3) [40] provides that the rules of a national securities association must permit any registered broker-dealer to become a member of the association.[41] A Security Futures Product Broker-Dealer will be a registered broker-dealer for purposes of the Exchange Act.[42] Without the statutory limitation on their activities, Registered National Securities Exchanges and registered national securities associations would be required to permit Security Futures Product Broker-Dealers (which are exempt from significant portions of the Exchange Act) to effect transactions in security futures products as members.

In contrast, the CEA permits designated contract markets and derivatives transaction execution facilities to set fitness standards for their members and does not require them to accept any specific type of person or entity as a member.[43] Accordingly, a Security Futures Product Exchange may deny membership to broker-dealers that are registered by notice with the CFTC (which are exempt from significant portions of the CEA). In addition, Exchange Act section 6(g)(4)(A)(i) exempts Security Futures Product Exchanges from the requirements of Exchange Act section 6(b)(2).[44]

The CFMA's system of joint regulation of security futures products is intended to prevent competitive advantages from arising solely out of differences between futures regulation and securities regulation. We believe that this concept is reflected in the fact that the CFMA provides different standards for CFTC Registrants that register by notice with the Commission than for broker-dealers that register by notice with the CFTC. Regulatory disparities would result if Security Futures Product Broker-Dealers were able to effect transactions in security futures products as members of Registered National Securities Exchanges or registered national securities associations along with fully registered (and fully regulated) broker-dealers. We believe that the different standards established by the CFMA for

[33] As discussed below, we are proposing to amend Form BD to add an item in which a Security Futures Product Broker-Dealer could indicate that it was amending its Form BD to apply for registration as a full broker-dealer.

[34] Among other requirements, a full broker-dealer must either be a member of national securities association registered pursuant to Exchange Act section 15A(a) (15 U.S.C. 78o–3(a)) or limit its securities activities to a Registered National Securities Exchange of which it is a member. Exchange Act section 15(b)(8), 15 U.S.C. 78o(b)(8).

[35] 15 U.S.C. 78f(a).

[36] Exchange Act section 6(h)(1) provides that ''[i]t shall be unlawful for any person to effect transactions in security futures products that are not listed on a national securities exchange or a national securities association registered pursuant to section 15A(a).''

[37] 7 U.S.C. 6f(a)(2).

[38] Specifically, CEA section 4f(a)(2)(A) provides that a broker-dealer may register by notice with the CFTC if it ''limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products.''

[39] 15 U.S.C. 78f(b)(2).

[40] 15 U.S.C. 78o–3(b)(3).

[41] There are limited exceptions to sections 6(b)(2) and 15A(b)(3). For example, Exchange Act sections 6(c)(2) and 15A(g)(2) (15 U.S.C. 78f(c)(2) and 78o–3(g)(2)) permit Registered National Securities Exchanges and national securities associations to deny membership to any registered broker-dealer that is subject to a ''statutory disqualification,'' as defined in Exchange Act sections 3(a)(39) (15 U.S.C. 78c(a)(39)). In addition, Exchange Act section 6(c)(3)(A) (15 U.S.C. 78f(c)(3)(A) permits a Registered National Securities Exchange to deny membership to a registered broker-dealer that does not meet the exchange's standards for financial responsibility or operational capability.

[42] The term ''registered broker or dealer'' is defined (in relevant part) in Exchange Act section 3(a)(48) as ''a broker or dealer registered or required to register pursuant to section 15 or 15B of [the Exchange Act]. . . .'' 15 U.S.C. 78c(a)(48).

[43] *See* CEA sections 5(d)(12) and 5a(d)(6) (7 U.S.C. 7(d)(12) and 7a(d)(6)).

[44] In its capacity as a limited purpose national securities association pursuant to Exchange Act section 15A(k), the NFA will be exempt from Exchange Act section 15A(b)(3). Under Exchange Act section 6(h)(1), however, the NFA is not permitted to list or trade security futures products.

notice registration of intermediaries address this potential for regulatory disparity.

However, we also believe that it would be consistent with the purposes of the CFMA for the Commission to permit Security Futures Product Broker-Dealers to trade security futures products that are listed or traded on Security Futures Product Exchanges as well as on Registered National Securities Exchanges, registered national securities associations, or alternative trading systems. The CFMA's regulatory scheme provides that Security Futures Product Broker-Dealers are subject to primary regulation by the CFTC and regulation on core securities law issues by the Commission. At the same time, the CFMA preserves the Commission's primary regulatory authority over broker-dealers that are members of Registered National Securities Exchanges and national securities associations registered pursuant to Exchange Act section 15A(a).[45] In light of this regulatory scheme, we believe that a Security Futures Product Broker-Dealer that is not a member of a Registered National Securities Exchange or a registered national securities association should be permitted to effect transactions in any type of security futures product. In addition, we believe that permitting Security Futures Product Broker-Dealers to effect transactions in security futures products traded on all markets should promote competition. Accordingly, we are proposing Exchange Act Rule 15a–10 to conditionally permit Security Futures Product Broker-Dealers to trade in security futures products regardless of the market on which the products are listed or traded.

Specifically, Proposed Exchange Act Rule 15a–10 would provide a conditional exemption from the registration requirements of Exchange Act section 15(a)(1) for Security Futures Product Broker-Dealers. However, the exemption in Proposed Rule 15a–10 would not apply to a Security Futures Product Broker-Dealer that became a member of a Registered National Securities Exchange or a registered national securities association. Accordingly, the proposed rule would prevent a Security Futures Product Broker-Dealer from effecting transactions in security futures products as a member of a Registered National Securities Exchange or a registered national securities association unless it was a full broker-dealer. As a result, Proposed Rule 15a–10 would permit Security Futures Product Broker-Dealers to effect transactions in security futures products that are listed or traded on a Registered National Securities Exchange, on registered national securities associations, or on alternative trading systems by effecting the transactions through a full broker-dealer.[46]

We request comment on Proposed Rule 15a–10. Is it appropriate to permit Security Futures Product Broker-Dealers to effect transactions in security futures products that are listed or traded on Registered National Securities Exchanges, registered national securities associations, or alternative trading systems?

4. Proposed Revisions to Rule 15b2–2 under the Exchange Act: Inspection of Newly Registered Brokers and Dealers

Exchange Act section 15(b)(2)(C) generally requires the Commission or a self-regulatory organization to inspect a newly registered broker-dealer within six months of its registration. The purpose of this inspection is to determine whether the broker-dealer is operating in conformity with the federal securities laws. Exchange Act Rule 15b2–2[47] implements section 15(b)(2)(C).

In adopting Rule 15b2–2, we noted that section 15(b)(2)(C) was added to the Exchange Act because of concern over the financial and operational difficulties that new broker-dealers may encounter in their early months of operation.[48] Accordingly, Rule 15b2–2 contains an exception for broker-dealers that were already registered when the rule took effect.

CFTC Registrants currently are and will continue to be subject to examinations by the CFTC.[49] In addition, the CFMA provides a specific scheme for the examination of Security Futures Product Broker-Dealers by the Commission under which the Commission consults with the CFTC with respect to its examinations of Security Futures Product Broker-Dealers.[50] Moreover, under the terms of the CFMA the Commission generally defers to the CFTC with respect to financial and operational matters involving Security Futures Product Broker-Dealers. In particular, Exchange Act section 15(b)(11)(B)(iii) exempts Security Futures Product Broker-Dealers from Exchange Act section 15(c)(3)[51] and the rules thereunder, which provide the financial responsibility standards for broker-dealers.[52]

In light of the statutory scheme of joint regulation, we believe that it is not necessary at this time to apply Rule 15b2–2 to Security Futures Product Broker-Dealers. Accordingly, we are proposing to amend Rule 15b2–2 to provide that it does not apply to Security Futures Product Broker-Dealers.

We request comment on the proposed amendments to Rule 15b2–2. Is it appropriate to provide an exception from the rule for Security Futures Product Broker-Dealers?

B. Proposed Amendments to Form BD

1. Amended Form BD

We are proposing to amend Form BD so that it may be used to provide notice of registration as a broker-dealer by a CFTC Registrant pursuant to Exchange Act section 15(b)(11)(A). Specifically, we are proposing to add new items 2E through 2H. These items would require a CFTC Registrant that is registering as a broker-dealer by notice to indicate that it is filing a notice registration, and to indicate that it satisfies the statutory conditions for notice registration. Proposed items 2E through 2H would also enable the Commission, other regulators, and the public to identify Security Futures Product Broker-Dealers registering pursuant to section 15(b)(11)(A). This identification will allow the Commission to determine the Security Futures Product Broker-Dealers' compliance with other applicable requirements.[53] In addition, we are proposing to add new Item 5B, by which a Security Futures Product Broker-Dealer can indicate that it is applying to convert its registration status to become a full broker-dealer.

[45] 15 U.S.C. 78o–3(a).

[46] A Security Futures Product Broker-Dealer relying on Proposed Rule 15a–10 could act in the capacity of a futures commission merchant, but would have to effect and clear the transactions through a full broker-dealer.

[47] 17 CFR 240.15b2–2.

[48] Securities Exchange Act Release No. 18556 (March 10, 1982), 47 FR 11267.

[49] *See* CEA section 4g(a) (7 U.S.C. 6g(a)).

[50] Section 204 of the CFMA amended Exchange Act section 17(b) to provide that the Commission must notify the CFTC before it examines a Security Futures Product Broker-Dealer. Section 17(b) also requires the Commission to provide the CFTC with any reports that the Commission prepares in connection with an examination of a Security Futures Product Broker-Dealer. In addition, section 17(b) specifically provides that Security Futures Product Broker-Dealers are not subject to routine periodic examinations by the Commission.

[51] 15 U.S.C. 78o(c)(3).

[52] *See, e.g.,* Exchange Act Rule 15c3–1 (17 CFR 240.15c3–1) (Net capital requirements for brokers or dealers).

[53] As noted above, Security Futures Product Broker-Dealers are exempt from a number of provisions of the Exchange Act. However, Security Futures Product Broker-Dealers must limit their securities business to security futures products and to securities activities that do not require full broker-dealer registration. *See* Exchange Act section 15(b)(11)(A) (15 U.S.C. 78o(b)(11)(A)).

We are also proposing to amend Form BD so that all broker-dealers may use it to notify the Commission of their security futures products activities. Broker-dealers would notify the Commission of their security futures products activities by checking new Item 12Z.[54] Depending on the volume of their business in security futures products, broker-dealers already registered with the Commission may have to amend their Forms BD to complete new Item 12Z. Specifically, the proposed new item would require both full broker-dealers and Security Futures Product Broker-Dealers to indicate that they are doing business in securities futures products if that business accounts for (or if they expect it to account for) 1 percent or more of their annual revenue.[55] In addition to these new items, we are also proposing amendments to the instructions for Form BD, which would describe the procedure for becoming a Security Futures Product Broker-Dealer. We request comment on the proposed amendments to Form BD.

2. Interim Schedule to Form BD

Form BD is filed with the CRD, which is operated and maintained by the NASD. Our staff has consulted with the staff of the NASD regarding the general need to amend Form BD in order to provide for notice registration. We understand that amending Form BD will require programming and systems changes to the CRD, and that it is possible that the NASD may not be able to complete the necessary programming and systems changes before August 21, 2001, the earliest date on which trading in security futures products may begin. We recognize, however, that we must have a process for notice registration established by August 21, 2001.

As a result, we anticipate that it may be necessary to adopt an interim form of notice under section 15(b)(11) until the appropriate amendments to Form BD can be incorporated into the CRD. Currently, we expect that if we do have to adopt an interim form of notice, it would be an interim schedule to the current Form BD. A CFTC Registrant that wanted to become a Security Futures Product Broker-Dealer would therefore file both the existing Form BD and the interim schedule. We further expect that the interim schedule would contain items and questions substantially similar to the questions and items that we are proposing to incorporate into Form BD.

C. Proposed Amendments to Regulation S–P

Title V of the GLBA directed the Commission and certain other federal agencies to adopt rules regarding the disclosure of customers' personal financial information by the financial institutions subject to the agencies' respective jurisdictions. Under this authority, we adopted Regulation S–P, which generally requires broker-dealers, investment companies, and registered investment advisers to: (1) Notify customers of their privacy policies and practices; (2) describe the conditions under which they may disclose customer information to nonaffiliated third parties; and (3) provide a method for their customers to prevent such disclosure of that information.[56] Title V does not apply to the CFTC or any of its regulated entities.[57]

As a result of the CFMA, however, some of the entities that the CFTC regulates are now subject to Title V of the GLBA.[58] Accordingly, the CFTC has adopted its own set of financial privacy rules.[59] Because we adopted Regulation S–P before the CFMA was enacted, certain of its provisions do not include the CFTC or its regulated entities. Therefore, we are proposing to update Regulation S–P.

Specifically, we are proposing to amend the definition of the term ''Federal functional regulator'' in section 248.3(m) of Regulation S–P[60] to add the CFTC to the list of regulators contained in the current definition. We are also proposing to amend the definition of the term ''financial institution'' in section 248.3(n) of Regulation S–P[61] to eliminate the exclusion for persons or entities with respect to financial activities subject to the jurisdiction of the CFTC under the CEA.

In addition, we are proposing to amend section 248.2 of Regulation S–P[62] to provide that Security Futures Product Broker-Dealers subject to and in compliance with the CFTC's financial privacy rules would also be in compliance with Regulation S–P. This proposed amendment to Regulation S–P would mirror a similar provision in the financial privacy rules that the CFTC has adopted.[63]

III. General Request for Comments

Any interested person wishing to submit comments on Proposed Rules 15a–10, 15b11–1, and 15b11–2, and the proposed amendments to Rule 15b2–2, Form BD, and Regulation S–P is requested to do so. In addition to the specific requests for comment throughout the release, we request comments on all aspects of the proposal. Further, we invite comment on other matters that might have an effect on the proposals contained in this release.

IV. Paperwork Reduction Act Analysis

Certain provisions of our proposals regarding notice registration of broker-dealers contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. section 3501 *et seq.*) (''PRA''). The Commission has submitted the proposal to the Office of Management and Budget (''OMB'') for review in accordance with the PRA requirements in effect at this time. The title for this collection of information: ''Application for Registration as a Broker or Dealer,'' which the Commission is proposing to amend, contains a currently approved collection of information under OMB control number 3235–0012. The information required by Form BD is mandatory and the responses are not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The proposed amendments to Form BD are intended to provide the Commission with information about Security Futures Product Broker-Dealers, particularly with respect to

[54] Current Item 12Z would be renumbered as Item 12AA.

[55] Item 12 of Form BD requires broker-dealers to indicate the types of business that account for (or that they expect to account for) 1% or more of their annual revenue from the securities or investment advisory business.

[56] 17 CFR Part 248. *See* Securities Exchange Act Release No. 42905 (June 22, 2000), 65 FR 40334.

[57] Specifically, section 504 of the GLBA does not include the CFTC in the list of agencies required to adopt financial privacy rules. In addition, section 509(2) of the GLBA does not include the CFTC in the definition of the term ''Federal functional regulator. Moreover, section 509(3)(B) of the GLBA specifically excludes from the definition of the term ''financial institution'' any person or entity with respect to any financial activity that is subject to the jurisdiction of the CFTC under the CEA.

[58] Specifically, section 124 of the CFMA added section 5g to the CEA (7 U.S.C. 7b–2), which makes Title V of the GLBA applicable to activity regulated by the CFTC. CEA section 5g(a) provides that notwithstanding section 509(3)(B) of the GLBA, futures commission merchants, commodity trading advisors, commodity pool operators and introducing brokers subject to the jurisdiction of the CFTC are to be treated as ''financial institutions'' for purposes of Title V of the GLBA. CEA section 5g(b) provides that the CFTC is to be treated as a ''Federal functional regulator'' under section 509(2) of the GLBA, and directs the CFTC to issue its own financial privacy regulations under Title V of the GLBA.

[59] *Privacy of Customer Information,* 66 FR 21236 (April 27, 2001) (''CFTC Privacy Release'').

[60] 17 CFR 248.3(m).

[61] 17 CFR 248.3(n).

[62] 17 CFR 248.2.

[63] *See* CFTC Privacy Release, 66 FR at 21252.

their satisfaction of the statutory conditions for notice registration. The proposed amendments are also intended to elicit specific information about the activities of broker-dealers regarding security futures products.[64] In addition the Commission and self-regulatory organizations use the information in Form BD for investigatory purposes. Moreover, members of the public use the information in Form BD to obtain relevant, up-to-date information about broker-dealers.

As discussed above, the proposed amendments to Form BD are primarily intended to implement Exchange Act section 15(b)(11).[65] Specifically, the proposed amendments would provide a mechanism for futures commission merchants and introducing brokers that are registered with the CFTC to register by notice with the Commission as broker-dealers in order to effect transactions in security futures products.

There are approximately 200 futures commission merchants registered with the CFTC; Commission staff estimates that 89 of those are also full broker-dealers. In addition, there are approximately 1,610 introducing brokers registered with the CFTC; Commission staff estimates that 322 of those are also full broker-dealers.[66] Therefore, the Commission staff estimates that approximately 1,399 futures commission merchants and introducing brokers ((200–89 futures commission merchants) + (1610–322 introducing brokers)) may potentially become Security Futures Product Broker-Dealers.

We have previously estimated that the average time necessary to complete the initial Form BD is approximately 2.75 hours.[67] The time necessary to complete Form BD will vary depending on the nature and complexity of the Security Futures Product Broker-Dealer's business. However, we believe that it will take less time for a Security Futures Product Broker-Dealer to complete Form BD than it does for an applicant for registration as a full broker-dealer because Security Futures Product Broker-Dealers are already required to submit registration information to the CFTC on Form 7–R that is substantially similar to the information required by Form BD. As a result, a Security Futures Product Broker-Dealer should be able to complete Form BD in large part by transposing information that already appears on its Form 7–R. Accordingly, we estimate that the average time necessary to complete Form BD by a Security Futures Product Broker-Dealer will be 2 hours. Therefore, we estimate that total annual burden hours for all Security Futures Product Broker-Dealers filing Form BD is 2,798 hours (2.0 hours × 1399 potential registrants).

Security Futures Product Broker-Dealers will be required to file amendments to Form BD when information originally reported on Form BD changes or becomes inaccurate. We have previously estimated that the average time necessary to complete an amendment to Form BD is approximately 20 minutes.[68] For fiscal year 2000, the Commission received approximately 26,000 amendments from a potential total of approximately 8,000 registered broker-dealers. Assuming approximately 1,399 new broker-dealers as a result of notice registration, the number of registered broker-dealers would increase by approximately 17.5% from 8,000 to 9,399. Accordingly, we estimate that there will be 17.5% more amendments to Form BD, or 4,550 (26,000 amendments × 17.5%), as a result of notice registration. Therefore, we estimate that the total annual burden hours for filing Form BD amendments by broker-dealers registered by notice is 1,501 (4550 amendments per year × 0.33 hours per amendment).

In 1999, we estimated that the total annual cost burden to registered broker-dealers for filing Form BD and Form BD amendments was approximately $195,000.[69] Providing for an annual inflation rate of approximately 3%, we currently estimate that the annual cost to registered broker-dealers for filing Form BD and Form BD amendments is approximately $206,876. As noted above, we estimate that the number of registered broker-dealers will increase by approximately 17.5% as a result of notice registration. We believe that the cost burden for broker-dealers registered by notice should be the same as it is for full broker-dealers. Accordingly, we estimate that the annual cost for filing Form BD and Form BD amendments will be approximately 17.5% of the current annual cost. As a result, we estimate that the total annual cost burden for filing Form BD and Form BD amendments by Security Futures Product Broker-Dealers will be approximately $36,203 ($206,876 × 17.5%).

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to—(i) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information; (iii) Enhance the quality, utility, and clarity of the information to be collected; (iv) Minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons desiring to submit comments on the collection of information requirements proposed above should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609 with reference to File No. S7–13–01. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The Commission has submitted the proposed collections of information to OMB for approval. Requests for the materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–13–01, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street, NW, Washington, DC 20549.

V. Costs and Benefits of the Proposed Rulemaking

The Commission is considering the costs and benefits of Proposed Rules 15a–10, 15b11–1, and 15b11–2, and the proposed amendments to Form BD, Rule

[64] The Commission uses the information disclosed by applicants in Form BD to: (i) Determine whether broker-dealer applicants meet the standards for registration set forth in the provisions of the Exchange Act; (ii) develop and maintain a central information resource where members of the public may obtain relevant, current information about broker-dealers, municipal securities dealers, and government securities brokers or government securities dealers, and where the Commission and other securities regulators may obtain information for investigatory purposes; and (iii) develop statistical information concerning broker-dealers, municipal securities dealers, and government securities brokers or government securities dealers.

[65] 15 U.S.C. 78o(b)(11).

[66] These estimates are based on conversations between Commission staff and CFTC staff.

[67] Securities Exchange Act Release No. 41594 (July 2, 1999), 64 FR 37586.

[68] Securities Exchange Act Release No. 41594 (July 2, 1999), 64 FR 37586.

[69] Securities Exchange Act Release No. 41594 (July 2, 1999), 64 FR 37586.

15b2–2 and Regulation S–P. We are sensitive to the costs and benefits that might arise from compliance with our rules and amendments, and we understand that some of the proposals we are announcing today will impose costs on some persons or entities. The majority of our proposals, however, are necessary to implement provisions of the CFMA.[70] We believe that these proposals will not impose any significant costs other than those that result from compliance with the CFMA.

A. Proposals Related to Security Futures Products

We are proposing Exchange Act Rules 15b11–1 and 15b11–2 and amendments to Form BD to prescribe the requirements for futures commission merchants and introducing brokers that are registered with the CFTC to register as broker-dealers pursuant to Exchange Act section 15(b)(11)(A)[71] in order to effect transactions in security futures products. We are also proposing Exchange Act Rule 15a–10 to provide Security Futures Product Broker-Dealers with a conditional exemption from registration as full broker-dealers pursuant to Exchange Act section 15(a)(1). In addition, we are proposing conforming amendments to Exchange Act Rule 15b–2.[72]

The proposed rules, form amendments, and conforming amendments respond to the mandate of the CFMA which, among other things, requires the Commission to prescribe, by rule, the process for notice registration to be used by Security Futures Product Broker-Dealers. Our proposals relating to security futures products are being made primarily pursuant to Exchange Act section 15(b)(11), which was added to the Exchange Act by the CFMA.

B. Proposed Amendments to Regulation S–P

We are proposing amendments to update Regulation S–P to make it consistent with CEA section 5g.[73] Specifically, we are proposing to amend the definitions of the terms ''Federal functional regulator'' and ''financial institution.'' In addition, we are proposing to amend Regulation S–P to provide that Security Futures Product Broker-Dealers may comply with Regulation S–P by complying with the CFTC's financial privacy rules.

C. Costs and Benefits of the Proposed Rulemaking

1. Costs and Benefits of Proposed Rules 15a–10, 15b11–1, and 15b11–2, Proposed Amendments to Form BD, and Conforming Amendments to Rule 15b2–2

We are proposing Rule 15b11–1 to set forth the information that a registered futures commission merchant or introducing broker (collectively, ''CFTC Registrants'') must submit to register as a Security Futures Product Broker-Dealer. Proposed Rule 15b11–1 would require a CFTC Registrant registering as a Security Futures Product Broker-Dealer pursuant to Exchange Act section 15(b)(11)(A)[74] to file Form BD with the Commission. Proposed Rule 15b11–2 would allow a Security Futures Product Broker-Dealer to apply to become registered as a full broker-dealer pursuant to Exchange Act section 15(b)(1)[75] by filing an amendment to its existing Form BD. The proposed amendments to Form BD would conform the form to Proposed Rules 15b11–1 and 15b11–2. Proposed Rule 15a–10 would conditionally permit Security Futures Product Broker-Dealers to effect transactions in security futures products regardless of where they are listed or traded without being subject to the registration requirements of Exchange Act section 15(a)(1).[76] The proposed amendments to Rule 15b2–2 would provide an exception for Security Futures Product Broker-Dealers from the requirements of that rule.

a. *Benefits.* Proposed Rule 15b11–1 provides for an expedited filing process for a CFTC Registrant to become registered with the Commission as a Security Futures Product Broker-Dealer. A Form BD submitted by a CFTC Registrant as a notice of registration as a Security Futures Product Broker-Dealer will not require approval from the Commission. In addition, the information that a CFTC Registrant will be required to submit on Form BD will be substantially similar to the information it must submit on its registration form with the CFTC. Therefore, we expect that it will take less time for a CFTC Registrant to complete Form BD than it would for a broker-dealer filing an initial application to become registered pursuant to section 15(b)(1). Proposed Rule 15b11–2 would permit a Security Futures Product Broker-Dealer to apply for registration as a full broker-dealer by filing an amended Form BD with the Commission, rather than having to prepare a new Form BD. As a result, the proposed rule should simplify the registration process for Security Futures Product Broker-Dealers that want to become full broker-dealers. In addition, Proposed Rules 15b11–1 and 15b11–2 would provide us with the information that we need to ensure that Security Futures Product Broker-Dealers meet the statutory conditions for notice registration.

Proposed Rule 15a–10 would conditionally exempt Security Futures Product Broker-Dealers from the statutory requirement that they register as full broker-dealers in order to effect transactions in security futures products that are listed or traded on a national securities exchange or a national securities association. This exemption would relieve Security Futures Product Broker-Dealers from a statutory limit on their ability to effect transactions in security futures products under their notice registrations. In addition, we are proposing an exception for Security Futures Product Broker-Dealers from the requirement in Rule 15b2–2 that they be inspected within 6 months of becoming registered. These proposals should increase the types of business that Security Futures Product Broker-Dealers may engage in under their notice registrations and reduce their regulatory burdens.

In addition, our proposals regarding security futures products will provide us with information about Security Futures Product Broker-Dealers that we believe is crucial to know about any broker-dealer. This information should in turn enhance our ability to oversee Security Futures Product Broker-Dealers that effect transactions in security futures products, which is critical to the continued integrity of our markets. We believe that our oversight of trading activities in security futures products, in conjunction with that of the CFTC, should benefit the public and the markets generally by helping to prevent fraud and manipulation.

b. *Costs.* Proposed Rules 15b11–1 and 15b11–2 and the proposed amendments to Form BD would require CFTC Registrants to gather the information to file with the Commission in order to become Security Futures Product Broker-Dealers. However, CFTC Registrants are already required to provide most of the information required by Form BD to the CFTC on Form 7–R. In addition, Security Futures Product Broker-Dealers would be required to file amendments to Form BD when information originally reported on Form BD changes or becomes inaccurate. While the proposed rules

[70] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[71] 15 U.S.c. 78o(b)(11)(A).

[72] 17 CFR 240.15b2–2.

[73] 7 U.S.C. 7b–2. Section 5g was added to the CEA by the CFMA.

[74] 15 U.S.C. 78o(b)(11)(A).

[75] 15 U.S.C. 78o(b)(1).

[76] 15 U.S.C. 78o(a)(1).

only address the process for notice registration, a CFTC Registrant that decides to effect transactions in security futures products will, of course, have expenses associated with being registered as a broker-dealer.

Full broker-dealers that are currently registered with the Commission would have to amend Form BD if they engaged in business in security futures products that accounted for (or that they expected to account for) 1% or more of their annual revenue. However, those broker dealers would have to amend their forms simply to indicate that they were engaged in that activity.

We believe that the proposed rules and the proposed amendments to Form BD have been designed to minimize costs and should not result in significant costs to any person or entity. In addition, CFTC Registrants and full broker-dealers would only be subject to the proposals if they choose to engage in business in security futures products.

2. Costs and Benefits of the Proposed Amendments to Regulation S–P

We are proposing amendments to Regulation S–P to update it in light of amendments that the CFMA made to the CEA. Specifically, the CFMA added section 5g to the CEA to make the privacy provisions of Title V of the Gramm-Leach-Bliley Act (''GLBA'') applicable to certain activity regulated by the CFTC. We adopted Regulation S–P pursuant to Title V of the GLBA and before the CFMA was enacted. We are proposing to amend the definition of the term ''Federal functional regulator'' in section 248.3(m) of Regulation S–P to add the CFTC to the list of regulators contained in the current definition. We are also proposing to amend the definition of the term ''financial institution'' in section 248.3(n) of Regulation S–P to eliminate the exclusion relating to the CFTC and its regulated entities. In addition, we are proposing to amend section 248.2 of Regulation S–P to provide that Security Futures Product Broker-Dealers may comply with Regulation S–P by complying with the CFTC's financial privacy rules.[77]

a. *Benefits.* The proposed amendments to Regulation S–P would clarify its application and reduce uncertainty that might result if the definitions of the terms ''federal financial regulator'' and ''financial institution'' in Regulation S–P were not amended in light of section 5g of the CEA. Moreover, the proposed amendments should benefit Security Futures Product Broker-Dealers by making it clear that they will be in compliance with Regulation S–P if the comply with the CFTC's financial privacy rules.

b. *Costs.* The proposed amendments would not affect the operation of Regulation S–P or impose any new requirements on any person or entity. As a result, we believe that the proposed amendments to Regulation S–P would not result in any additional costs to any person or entity.

D. Request for Comment

To assist us in our evaluation of the costs and benefits, we request comment on the estimated costs and benefits that might result from Proposed Rules 15a–10, 15b11–1, and 15b11–2, and the proposed amendments to Form BD, Rule 15b2–2 and Regulation S–P. In addition, we request that commenters provide analysis and data relating to the anticipated costs and benefits associated with our proposals, including any other costs and benefits that have not been considered here. In order to fully evaluate the costs and benefits associated with our proposals, we request that commenters' estimates of the costs and benefits of the proposals be accompanied by specific empirical data supporting the estimates.

VI. Consideration of the Burden on Competition, Promotion of Efficiency, and Capital Formation

Section 3(f) of the Exchange Act[78] requires the Commission, when engaging in a rulemaking requiring the Commission to consider or determine whether an action is necessary or appropriate in the public interest, to consider also whether the action will promote efficiency, competition, and capital formation. Proposed Rules 15b11–1 and 15b11–2, the proposed amendments to Rule 15b2–2, and the proposed amendments to Form BD would provide CFTC Registrants with an expedited process to register with the Commission, which we preliminarily believe would serve as an efficient and cost-effective means for those entities to meet their registration obligations with respect to security futures products. In addition, Proposed Rule 15a–10 should improve the efficiency of the marketplace by providing CFTC Registrants the ability to effect transactions in security futures products on all markets on which the products are listed and traded. We believe that the rule is designed to bolster investor confidence by increasing competition in the markets for security futures products, and to ensure that all qualified market participants have the opportunity to participate in those markets. This should promote market efficiency, competition and capital formation.

Our proposal to amend Regulation S–P should promote efficiency by providing that Security Futures Product Broker-Dealers will have to comply with the financial privacy rules of only their primary regulator. Because the only purpose of the proposed amendments is to update Regulation S–P in light of the CFMA, we preliminarily believe that our proposals will not adversely affect capital formation.

Section 23(a)(2) of the Exchange Act[79] requires the Commission, in making rules under the Exchange Act, to consider the impact that any such rule would have on competition. In addition, section 23(a)(2) prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rules and amendments that we are announcing today, which implement provisions of the CFMA, would apply equally to all affected entities. The proposals also would provide the mechanism for Security Futures Product Broker-Dealers to enter the new market for security futures products. All CFTC Registrants that intend to effect transactions in security futures products would use the same procedures to register by notice with the Commission, and the conditions for notice registration would apply equally to all CFTC Registrants. In addition, the proposals would permit Security Futures Product Broker-Dealers to effect transactions in security futures products regardless of the market on which the products are listed or traded, thereby allowing them to compete evenly with full broker-dealers. As a result, we preliminarily believe that the proposals would not create any anticompetitive effects and in fact should promote competition. Moreover, the proposed amendments to Regulation S–P would not impact competition because their only purpose is to update Regulation S–P in light of the CFMA.

The Commission requests comment on whether the proposed amendments are expected to promote efficiency, competition, and capital formation.

[77] This proposed amendment to Regulation S–P would mirror a similar provision in the financial privacy rules that the CFTC has adopted. *See Privacy of Customer Information,* 66 FR 21236 (April 27, 2001).

[78] 15 U.S.C. 78c(f).

[79] 15 U.S.C. 78w(a).

VII. Regulatory Flexibility Act Certification

Section 3(a) of the Regulatory Flexibility Act [80] requires the Commission to undertake an initial regulatory flexibility analysis of the effects of proposed rules and rule amendments on small entities, unless the Chairman certifies that the rules and rule amendments, if adopted, would not have a significant economic impact on a substantial number of small entities.[81] Proposed Rules 15b11–1, 15b11–2 and 15a–10, the proposed amendments to Rule 15b2–2, and the proposed amendments to Form BD would apply to CFTC Registrants (including small introducing brokers) that choose to effect transactions in security futures products. The Commission believes that some small entities could be affected by the proposals, but that the proposals would not have a significant economic impact on a substantial number of small entities.

The proposed amendments to Regulation S–P would apply to Security Futures Product Broker-Dealers. The proposed amendments would not affect the operation of Regulation S–P or impose any new requirements on any entity. As a result, the Commission believes that the proposed amendments would not have a significant economic impact on a substantial number of small entities.

The Acting Chairman has certified that the proposed rules and amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. A copy of the certification is attached as Appendix A.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is also requesting information regarding the potential impact of the proposed rules and rule amendments on the economy on an annual basis. Commenters should provide empirical data to support their views.

VIII. Statutory Basis

The Commission is proposing Rules 15a–10, 15b11–1, and 15b11–2 under the Exchange Act and amendments to Rule 15b2–2 and to Form BD under the Exchange Act, pursuant to the Exchange Act, particularly sections 15(a), 15(b), and 23(a).[82] The Commission is proposing amendments to Regulation S–P pursuant to section 504 of the GLBA [83] and Exchange Act sections 17 and 23(a).[84]

List of Subjects

17 CFR Part 240

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements, Securities.

17 CFR Part 248

Brokers, Consumer protection, Investment companies, Privacy, Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Brokers, Reporting and recordkeeping requirements, Securities.

Text of Proposed New Rules and Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. By adding § 240.15a–10 to read as follows:

§ 240.15a–10 Exemption of certain brokers or dealers with respect to security futures products.

(a) A broker or dealer that is registered by notice with the Commission pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) will be exempt from the registration requirement of section 15(a)(1) of the Act (15 U.S.C. 78o(a)(1)) solely to act as a broker or a dealer in security futures products.

(b) The exemption in paragraph (a) of this section is not available to any broker or dealer that is:

(1) A member of a national securities exchange registered pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)); or

(2) A member of a national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78o–3(a)).

3. By amending § 240.15b2–2 by:

a. At the end of paragraph (e)(2), removing the word ''or'';

b. At the end of paragraph (e)(3), removing the period and in its place adding ''; or''; and

c. Adding paragraph (e)(4).

The addition reads as follows:

§ 240.15b2–2 Inspection of newly registered brokers and dealers.

* * * * *

(e) * * *

(4) The member is registered with the Commission pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)).

4. By adding §§ 240.15b11–1 and 240.15b11–2 before the undesignated center heading ''Rules Relating to Over-the-Counter Markets'' to read as follows:

§ 240.15b11–1 Registration by notice of security futures product broker-dealers.

(a) A broker or dealer may register by notice pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) if it:

(1) Is registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker, as those terms are defined in the Commodity Exchange Act (7 U.S.C. 1, *et seq.*), respectively;

(2) Is a member of the National Futures Association or another national securities association registered under section 15A(k) of the Act (15 U.S.C. 78o–3(k));

(3) Is not a member of a national securities exchange registered pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)) or of the National Association of Securities Dealers, Inc. or another national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78o–3(a)); and

(4) Is not required to register as a broker or dealer in connection with transactions in securities other than security futures products.

(b) A broker or dealer registering by notice pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) must file Form BD (17 CFR 249.501) with the Central Registration Depository (operated by the National Association of Securities Dealers, Inc.) in accordance with the instructions to the form. A broker or dealer registering by notice pursuant to this section must indicate where appropriate on Form BD that it satisfies all of the conditions in paragraph (a) of this section.

(c) An application for registration by notice that is filed on Form BD (17 CFR 249.501) with the Central Registration Depository pursuant to this section will be considered a ''report'' filed with the Commission for purposes of sections 15(b), 17(a), 18(a), 32(a) (15 U.S.C. 78o(b), 78q(a), 78r(a), 78ff(a)) and other applicable provisions of the Act.

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[80] 5 U.S.C. 603(a).

[81] 5 U.S.C. 605(b).

[82] 15 U.S.C. 78o(a), 78o(b), 78o–4(a)(2), 78o–5(a)(2), and 78w(a).

[83] 15 U.S.C. 6804.

[84] 15 U.S.C. 78q and 78w(a).

§ 240.15b11–2 Conversion of notice registration of security futures product broker-dealers.

(a) A broker or dealer registered by notice pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) may apply for registration pursuant to section 15(b)(1) of the Act (15 U.S.C. 78o(b)(1)) by filing an amendment to Form BD (17 CFR 249.501) with the Central Registration Depository (operated by the National Association of Securities Dealers, Inc.) and indicating where appropriate on Form BD that it is making such an application.

(b) The registration by notice of a broker or dealer that applies for registration pursuant to paragraph (a) of this section will remain in effect until the broker or dealer has satisfied all of the requirements for registration under section 15(b)(1) of the Act (15 U.S.C. 78o(b)(1)). The broker or dealer may not effect transactions in securities except as permitted by section 15(b)(11) of the Act (15 U.S.C. 78o(b)(11)) and §§ 240.3a43–1, 240.3a44–1 and 240.15a–10 until:

(1) The Commission issues an order granting the registration of the broker or dealer;

(2) The broker or dealer has been approved for membership in a national securities exchange registered under section 6(a) of the Act (15 U.S.C. 78f(a)) or a national securities association registered under section 15A(a) of the Act (15 U.S.C. 78o–3(a)); and

(3) The broker or dealer has satisfied any other conditions necessary to make its registration effective.

(c) When the registration of the broker or dealer pursuant to section 15(b)(1) of the Act (15 U.S.C. 78o(b)(1)) has become effective, the broker or dealer will no longer be registered pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) and will be subject to all provisions of the Act and regulations thereunder applicable to it, including with respect to its activity in security futures products.

PART 248—REGULATION S–P: PRIVACY OF CONSUMER FINANCIAL INFORMATION

5. The authority citation for Part 248 continues to read as follows:

Authority: 15 U.S.C. 6801–6809; 15 U.S.C. 78q, 78w, 80a–30(a), 80a–37, 80b–4, and 80b–11.

6. By amending § 248.2 by designating the current text as paragraph (a) and adding paragraph (b) to read as follows:

§ 248.2 Rule of construction.

* * * * *

(b) Substituted Compliance with CFTC Financial Privacy Rules by Futures Commission Merchants and Introducing Brokers. Any futures commission merchant or introducing broker (as those terms are defined in the Commodity Exchange Act (7 U.S.C. 1, *et seq.*)) registered by notice with the Commission for the purpose of conducting business in security futures products pursuant to section 15(b)(11)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(11)(A)) that is subject to and in compliance with the financial privacy rules of the Commodity Futures Trading Commission (17 CFR part 160) will be deemed to be in compliance with this part.

7. By amending § 248.3 by:

a. At the end of paragraph (m)(5), removing the word ''and';

b. At the end of paragraph (m)(6), removing the period and in its place adding ''; and';

c. Adding paragraph (m)(7);

d. Removing paragraph (n)(2)(i); and

e. Redesignating paragraphs (n)(2)(ii) and (n)(2)(iii) as paragraphs (n)(2)(i) and (n)(2)(ii).

The addition reads as follows:

§ 248.3 Definitions.

* * * * *

(m) * * *

(7) The Commodity Futures Trading Commission.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

8. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

* * * * *

9. By revising Form BD (referenced in § 249.501) to read as set forth in appendix B below:

Note: Form BD does not and the revisions will not appear in the Code of Federal Regulations. Revised Form BD is attached as appendix B to this document.

By the Commission.

Dated: June 20, 2001.

Margaret H. McFarland,

Deputy Secretary.

Appendix A

Note: Appendix A to the preamble will not appear in the Code of Federal Regulations.

Regulatory Flexibility Act Certification

I, Laura S. Unger, Acting Chairman of the Securities and Exchange Commission (''Commission''), hereby certify pursuant to 5 U.S.C. 605(b) that Proposed Rules 15b11–1, 15b11–2, and 15a–10 under the Securities Exchange Act of 1934 (''Exchange Act''), the proposed amendments to Rule 15b2–2 under the Exchange Act, the proposed amendments to Form BD, and the proposed amendments to Regulation S–P, would not, if adopted, have a significant economic impact on a substantial number of small entities. Proposed Rules 15b11–1, 15b11–2, and 15a–10, and the proposed amendments to Form BD would permit futures commission merchants and introducing brokers registered with the Commodity Futures Trading Commission (''CFTC Registrants'') to register with the Commission by notice as broker-dealers for the purpose of effecting transactions in security futures products (''Security Futures Product Broker-Dealers''). Proposed Rule 15b11–1 would provide that a CFTC Registrant must file its notice of registration as a Security Futures Product Broker-Dealer on Form BD. Proposed Rule 15b11–2 would provide that a notice registrant broker-dealer could apply under section 15(b)(1) of the Exchange Act to become registered as a full broker-dealer by filing an amendment to its Form BD. Proposed Rule 15a–10 would provide Security Futures Product Broker-Dealers with an exemption from section 15(a)(1) of the Exchange Act that would conditionally permit them to effect transactions in security futures products regardless of the market on which they are listed or traded. The proposed amendment to Rule 15b2–2 would provide an exception for Security Futures Product Broker-Dealers from the requirement that broker-dealers be inspected by a self-regulatory organization within six months of becoming registered. The proposed amendments to Form BD would conform the form to Proposed Rules 15b11–1 and 15b11–2 and would provide information about all registered broker-dealers' activities in security futures products. The only impact of these proposals would be on broker-dealers, futures commission merchants, and introducing brokers that choose to do business in security futures products. In addition, the only requirement of the proposals would be to provide information. Accordingly the proposals, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed amendments to Regulation S–P would revise the definitions of the terms ''Federal functional regulator'' and ''financial institution,'' in accordance with section 124 of the CFMA. In addition, the proposed amendments to Regulation S–P would provide that a notice registrant broker-dealer could comply with Regulation S–P by complying with the CFTC's financial privacy rules. The proposed amendments to Regulation S–P would not have any effect on the operation of Regulation S–P or impose any new requirements on any entity. Accordingly the proposed amendments to Regulation S–P, if adopted, would not have a significant economic impact on a substantial number of small entities.

Dated: June 19, 2001.

Laura S. Unger,

Acting Chairman, Appendix B.

BILLING CODE 8010–01–P

Appendix B

Form BD

Note: Appendix B to the preamble will not appear in the Code of Federal Regulations.

OMB APPROVAL	
OMB Number:	3235-0012
Expires:	TBD
Estimated average burden hours per response	2.75
per amendment	0.33

Uniform Application for Broker-Dealer Registration

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

SEC 1490 (06-01)

FORM BD INSTRUCTIONS

A. GENERAL INSTRUCTIONS

1. Form BD is the Uniform Application for Broker-Dealer Registration. Broker-Dealers must file this form to register with the Securities and Exchange Commission, the *self-regulatory organizations,* and *jurisdictions* through the Central Registration Depository ("CRD") system, operated by the NASD.
2. **UPDATING** – By law, the *applicant* must promptly update Form BD information by submitting amendments whenever the information on file becomes inaccurate or incomplete for any reason.
3. **CONTACT EMPLOYEE** – The individual listed as the contact employee must be authorized to receive all compliance information, communications, and mailings, and be responsible for disseminating it within the *applicant's* organization.
4. **GOVERNMENT SECURITIES ACTIVITIES**
   - A. Broker-dealers registered or *applicants* applying for registration under Section 15(b) of the Exchange Act that conduct (or intend to conduct) a government securities business in addition to other broker-dealer activities (if any) must file a notice on Form BD by answering "yes" to Item 2B.
   - B. Section 15C of the Securities Exchange Act of 1934 requires sole government securities broker-dealers to register with the SEC. To do so, answer "yes" to Item 2C if conducting *only* a government securities business.
   - C. Broker-dealers registered under Section 15(b) of the Exchange Act that cease to conduct a government securities business must file notice when ceasing their activities in government securities. To do so, file an amendment to Form BD and answer "yes" to Item 2D.

NOTE: Broker-dealers registered under Section 15C may register under Section 15(b) by filing an amendment to Form BD and answering "yes" to Items 2A and 2D. By doing so, broker-dealer expressly consents to withdrawal of broker-dealer's registration under 15C of the Exchange Act.

5. **SECURITY FUTURES PRODUCTS ACTIVITIES**
   - A. An *applicant* registering by notice as permitted by Section 15(b)(11)(A) of the Securities Exchange Act of 1934 in order to conduct business in security futures products must file a notice on Form BD by answering "yes" to Item 2E. Such an *applicant* is referred to below as a "security futures product broker-dealer."
   - B. A security futures product broker dealer must be registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker. An *applicant* registering as a security futures product broker-dealer must state that it is registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker by answering "yes" to Item 2F.
   - C. A security futures product broker-dealer must be a member of the National Futures Association or another national securities association registered under Section 15A(k) of the Securities Exchange Act of 1934. To indicate such membership, an *applicant* registering as a security futures product broker-dealer must answer "yes" to Item 2G.
   - D. Except for securities transactions that do not require broker-dealer registration (such as transactions in government securities that are incidental to its futures-related business as defined in Rules 3a43-1 and 3a44-1 under the Securities Exchange Act of 1934), a security futures product broker-dealer must limit its business in securities to security futures products. An *applicant* registering as a security futures product broker-dealer must indicate that it will properly limit its securities business by answering "no" to Item 2H.

NOTE: A security futures product broker-dealer may apply for registration as a "full" broker-dealer pursuant to Section 15(b)(1) of the Securities Exchange Act of 1934 to conduct business in securities other than security futures products by filing an amendment to Form BD and answering "yes" to Items 2A, 2H and 5B and answering "no" to Item 2E. The notice registration of the security futures product broker-dealer will remain effective while its application to become a full broker-dealer is pending. However, the security futures product broker-dealer must continue to limit its business in securities to security futures products until it has satisfied all of the requirements under the Securities Exchange Act of 1934 to become a full broker-dealer. A security futures product broker-dealer's application to become a full broker-dealer constitutes express consent to withdrawal of its notice registration once its registration as a full broker-dealer is complete. In addition, a full broker-dealer is not subject to the exemptions contained in Section 15(b)(11)(B) of the Securities Exchange Act of 1934, even with respect to its business in security futures products.

6. **FEDERAL INFORMATION LAW AND REQUIREMENTS** – An agency may not conduct or sponsor, and a *person* is not required to respond to, a collection of information unless it displays a currently valid control number. Section 15, 15c, 17(a) and 23(a) of the Exchange Act authorize the Commission to collect the Information on this Form from registrants. See 15 U.S.C. §§78o, 78o-5, 78-q and 78w. Filing of this Form is mandatory; however the social security number information, which aids in identifying the *applicant*, is voluntary. The principal purpose of this Form is to permit the Commission to determine whether the *applicant* meets the statutory requirement to engage in the securities business. The Form also is used by *applicants* to register as broker-dealers with certain *self-regulatory organizations* and all of the states. The Commission and the National Association of Securities Dealers, Inc. maintain the files of the information on this Form and will make the information publicly available. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate on application facing page of this Form, and any suggestions for reducing this burden. This collection of information has been reviewed by the Office of Management and Budget in accordance with the clearance requirements of 44 U.S.C. §3507. The information contained in this form is part of a system of records subject to the Privacy Act of 1974, as amended. The Securities and Exchange Commission has published in the Federal Register the Privacy Act Systems of Records Notice for these records.

B. PAPER FILING INSTRUCTIONS (FIRST TIME *APPLICANTS* FILING WITH CRD AND WITH SOME *JURISDICTIONS)*

1. **FORMAT**
   - A. A full paper Form BD is required when the *applicant* is filing with the CRD for the first time. In addition, some *jurisdictions* may require a separate paper filing of Form BD. The *applicant* should contact the appropriate *jurisdiction(s) for* specific filing requirements.

B. Attach an Execution Page (Page 1) with original manual signatures to the initial Form BD filing.
C. Type all information.
D. Give the name of the broker-dealer and date on each page.
E. Use only the current version of Form BD and its Schedules or a reproduction of them.

2. **DISCLOSURE REPORTING PAGE (DRP)** – Information concerning the *applicant or control affiliate* that relates to the occurrence of an event reportable under Item 11 must be provided on the *applicant's* appropriate DRP(BD). If a *control affiliate* is an individual or organization registered through the CRD, such *control affiliate* need only complete Part I of the *applicant's* appropriate DRP(BD). Details of the event must be submitted on the *control affiliate's* appropriate DRP(BD) or DRP(U-4). Attach a copy of the fully completed DRP(BD), or DRP(U-4) previously submitted. If a *control affiliate* is an individual or organization not registered through the CRD, provide complete answers to all of the items on the *applicant's* appropriate DRP(BD).

3. **SCHEDULES A, B AND C** – File Schedules A and B only with initial applications for registration. Use Schedule C to update Schedules A and B. Individuals not required to file a Form U-4 (individual registration) with the CRD system who are listed on Schedules A, B, or C must attach page 2 of Form U-4. The *applicant* broker-dealer must be listed in Form U-4 Item 20 or 21. Signatures are not required.

4. **SCHEDULE D** – Schedule D provides additional space for explaining answers to Item 1C(2), and "yes" answers to items 5, 7, 8, 9,10,12, and 13 of Form BD.

C. ELECTRONIC FILING INSTRUCTIONS (*APPLICANTS*/ REGISTERED BROKER-DEALERS FILING AMENDMENTS WITH CRD)

1. **FORMAT**

A. Items 1-13 must be answered and all fields requiring a response must be completed before the filing will be accepted.
B. *Applicant* must complete the execution screen certifying that Form BD and amendments thereto have been executed properly and that the information contained therein is accurate and complete.
C. To amend information, *applicant* must update the appropriate Form BD screens.
D. A paper copy, with original manual signatures, of the initial Form BD filing and amendments to Disclosure Reporting Pages (DRPs BD) must be retained by the *applicant* and be made available for inspection upon a regulatory request.

2. **DISCLOSURE REPORTING PAGE (DRP)** – Information concerning the *applicant* or *control affiliate* that relates to the occurrence of an event reportable under Item 11 must be provided on the *applicant's* appropriate DRP(BD). If a *control affiliate* is an individual or organization registered through the CRD, such *control affiliate* need only complete the *control affiliate* name and CRD number of the *applicant's* appropriate DRP(BD). Details for the event must be submitted on the *control affiliate's* appropriate DRP(BD) or DRP(U-4). If a *control affiliate* is an individual or organization not registered through the CRD, provide complete answers to all of the questions and complete all fields requiring a response on the *applicant's* appropriate DRP(BD) screen.

3. **DIRECT AND INDIRECT OWNERS** – Amend the Direct Owners and Executive Officers screen and the Indirect Owners screen when changes in ownership occur. *Control affiliates* that are individuals who are not required to file a Form U-4 (individual registration) with the CRD must complete page 2 of Form U-4 (i.e., submit/file the information elicited by the Personal Data, Residential History, and Employment and Personal History sections of that Form). The *applicant* broker-dealer must be listed in Form U-4 Item 20 or 21.

The CRD mailing address for questions and correspondence is:

NASAA/NASD CENTRAL REGISTRATION DEPOSITORY
P.O. BOX 9495
GAITHERSBURG, MD 20898-9495

EXPLANATION OF TERMS

(The following terms are italicized throughout this form.)

1. **GENERAL**

APPLICANT – The broker-dealer applying on or amending this form.

CONTROL – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any *person* that (i) is a director, general partner or officer exercising executive responsibility (or having similar status or functions); (ii) directly or indirectly has the right to vote 25% or more of a class of a voting security or has the power to sell or direct the sale of 25% or more of a class of voting securities; or (iii) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 25% or more of the capital, is presumed to control that company. (This definition is used solely for the purpose of Form BD.)

JURISDICTION – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.

PERSON – An individual, partnership, corporation, trust, or other organization.

SELF-REGULATORY ORGANIZATION – Any national securities or commodities exchange or registered securities association, or registered clearing agency.

2. FOR THE PURPOSE OF ITEM 5 AND SCHEDULE D

SUCCESSOR - An unregistered entity that assumes or acquires substantially all of the assets and liabilities, and that continues the business of, a registered predecessor broker-dealer, who ceases its broker-dealer activities. [See Securities Exchange Act Release No. 31661 (December 28, 1992), 58 FR 7 (January 4, 1993)]

3. FOR THE PURPOSE OF ITEM 11 AND THE CORRESPONDING DISCLOSURE REPORTING PAGES (DRPs)

CONTROL AFFILIATE – A *person* named in Items 1A, 9 or in Schedules A, B or C as a *control* person or any other individual or organization that directly or indirectly controls, is under common control with, or is controlled by, the *applicant*, including any current employee except one performing only clerical, administrative, support or similar functions, or who, regardless of title, performs no executive duties or has no senior policy making authority.

INVESTMENT OR INVESTMENT-RELATED – Pertaining to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, municipal securities dealer, government securities broker or dealer, issuer, investment company, investment adviser, futures sponsor, bank, or savings association).

INVOLVED – Doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

FOREIGN FINANCIAL REGULATORY AUTHORITY – Includes (1) a foreign securities authority; (2) other governmental body or foreign equivalent of a *self-regulatory organization* empowered by a foreign government to administer or enforce its laws relating to the regulation of *investment* or *investment-related* activities; and (3) a foreign membership organization, a function of which is to regulate the participation of its members in the activities listed above.

PROCEEDING – Includes a formal administrative or civil action initiated by a governmental agency, *self-regulatory organization* or a *foreign financial regulatory authority*; a *felony* criminal indictment or information (or equivalent formal charge); or a *misdemeanor* criminal information (or equivalent formal charge). Does not include other civil litigation, investigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge).

CHARGED – Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

ORDER – A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an *order*.

FELONY – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *felony* is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a general court martial.

MISDEMEANOR – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *misdemeanor* is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also includes a special court martial.

FOUND – Includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters, examination reports, memoranda of understanding, letters of caution, admonishments, and similar informal resolutions of matters.

MINOR RULE VIOLATION – A violation of a *self-regulatory organization* rule that has been designated as "minor" pursuant to a plan approved by the U.S. Securities and Exchange Commission. A rule violation may be designated as "minor" under a plan if the sanction imposed consists of a fine of $2,500 or less, and if the sanctioned person does not contest the fine. (Check with the appropriate *self-regulatory organization* to determine if a particular rule violation has been designated as "minor" for these purposes).

ENJOINED – Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a temporary restraining order.

FORM BD **PAGE 1** (Execution Page) (REV. 7/1999)	**UNIFORM APPLICATION FOR BROKER-DEALER REGISTRATION** Date:_____ SEC File No: 8- _____ Firm CRD No.: _____	**OFFICIAL USE**	OFFICIAL USE ONLY

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records or otherwise to comply with the provisions of law applying to the conduct of business as a broker-dealer would violate the Federal securities laws and the laws of the *jurisdictions* and may result in disciplinary, administrative, injunctive or criminal action.

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

☐ APPLICATION ☐ AMENDMENT

1. Exact name, principal business address, mailing address, if different, and telephone number of *applicant:*

   A. Full name of *applicant* (if sole proprietor, state last, first and middle name):

   _____

   B. IRS Empl. Ident. No.:

   _____

   C. (1) Name under which broker-dealer business primarily is conducted, if different from Item 1A.

   _____

   (2) List on Schedule D, Page1, Section I any other name by which the firm conducts business and where it is used.

   D. If this filing makes a name change on behalf of the *applicant*, enter the new name and specify whether the name change is of the ☐ *applicant* name (1A) or ☐ business name (1C):

   Please check above. _____

   E. Firm main address: (Do not use a P.O. Box)

   _____
   (Number and Street) (City) (State/Country) (Zip+4/Postal Code)

   Branch offices or other business locations must be reported on Schedule E.

   F. Mailing address, if different:

   _____

   G. Business Telephone Number:

   _____ _____
   (Area Code) (Telephone Number)

   H. Contact Employee:

   _____ _____ _____
   (Name and Title) (Area Code) (Telephone Number)

EXECUTION:

For the purposes of complying with the laws of the State(s) designated in Item 2 relating to either the offer or sale of securities or commodities, the undersigned and *applicant* hereby certify that the *applicant* is in compliance with applicable state surety bonding requirements and irrevocably appoint the administrator of each of those State(s) or such other person designated by law, and the successors in such office, attorney for the *applicant* in said State(s), upon whom may be served any notice, process, or pleading in any action or *proceeding* against the *applicant* arising out of or in connection with the offer or sale of securities or commodities, or out of the violation or alleged violation of the laws of those State(s), and the *applicant* hereby consents that any such action or *proceeding* against the *applicant* may be commenced in any court of competent jurisdiction and proper venue within said State(s) by service of process upon said appointee with the same effect as if *applicant* were a resident in said State(s) and had lawfully been served with process in said State(s).

The *applicant* consents that service of any civil action brought by or notice of any *proceeding* before the Securities and Exchange Commission or any *self-regulatory organization* in connection with the *applicant's* broker-dealer activities, or of any application for a protective decree filed by the Securities Investor Protection Corporation, may be given by registered or certified mail or confirmed telegram to the *applicant's* contact employee at the main address, or mailing address if different, given in Items 1E and 1F.

The undersigned, being first duly sworn, deposes and says that he/she has executed this form on behalf of, and with the authority of, said *applicant.* The undersigned and *applicant* represent that the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and *applicant* further represent that to the extent any information previously submitted is not amended such information is currently accurate and complete.

_____ _____
Date (MM/DD/YYYY) Name of Applicant

By: _____ _____
Signature Print Name and Title

Subscribed and sworn before me this _____ day of _____, _____ by _____
Year Notary Public

My Commision expires _____ County of _____ State of _____

This page must always be completed in full with original, manual signature and notarization.
To amend, circle items being amended. Affix notary stamp or seal where applicable.

DO NOT WRITE BELOW THIS LINE - FOR OFFICIAL USE ONLY

FORM BD
PAGE 2
(REV. 7/1999)

Applicant Name: _____
Date: _____ Firm CRD No.: _____

OFFICIAL USE | OFFICIAL USE ONLY

2. Indicate by checking the appropriate box(es) each governmental authority, organization, or *jurisdiction* in which the *applicant* is registered or registering as a broker-dealer.

SECURITIES AND EXCHANGE COMMISSION

If *applicant* is registered or registering with the SEC, check here and answer Items 2A through 2H below. ☐

	YES	NO
A. Is *applicant* registered or registering as a broker-dealer under Section 15(b) or Section 15B of the Securities Exchange Act of 1934?	☐	☐
B. Is *applicant* registered or registering as a broker-dealer under Section 15(b) of the Securities Exchange Act of 1934 and also acting or intending to act as a government securities broker or dealer?	☐	☐
C. Is *applicant* registered or registering solely as a government securities broker or dealer under Section 15C of the Securities Exchange Act of 1934? *Do not answer "yes" to Item 2C if applicant answered "yes" to Item 2A or Item 2B.*	☐	☐
D. Is *applicant* ceasing its activities as a government securities broker or dealer?	☐	☐

If applicant answers "yes" to Items 2A and 2D, applicant expressly consents to the withdrawal of its registration as a government securities broker or dealer under Section 15C of the Securities Exchange Act of 1934. See "Instructions."

E. Is *applicant* registered or registering by notice pursuant to Section 15(b)(11)(A) of the Securities Exchange Act of 1934 in order to conduct business in security futures products?	☐	☐
F. If *"Yes"* to Item 2E, is *applicant* registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker?	☐	☐
G. If *"Yes"* to Item 2E, is *applicant* a member of the National Futures Association or another national securities association registered under Section 15A(k) of the Securities Exchange Act of 1934?	☐	☐
H. If *"Yes" to* Item 2E, does *applicant* conduct or will *applicant* conduct business in securities that requires *applicant* to register under Section 15(b)(1), Section 15B, or Section 15C of the Securities Exchange Act of 1934?	☐	☐

SRO

☐ AMEX ☐ BSE ☐ CBOE ☐ CHX ☐ CSE ☐ ISE ☐ NASD ☐ NYSE ☐ PHLX ☐ PCX ☐ OTHER *(specify)* _____

JURISDICTION

☐ Alabama	☐ Hawaii	☐ Michigan	☐ North Carolina	☐ Texas
☐ Alaska	☐ Idaho	☐ Minnesota	☐ North Dakota	☐ Utah
☐ Arizona	☐ Illinois	☐ Mississippi	☐ Ohio	☐ Vermont
☐ Arkansas	☐ Indiana	☐ Missouri	☐ Oklahoma	☐ Virginia
☐ California	☐ Iowa	☐ Montana	☐ Oregon	☐ Washington
☐ Colorado	☐ Kansas	☐ Nebraska	☐ Pennsylvania	☐ West Virginia
☐ Connecticut	☐ Kentucky	☐ Nevada	☐ Puerto Rico	☐ Wisconsin
☐ Delaware	☐ Louisiana	☐ New Hampshire	☐ Rhode Island	☐ Wyoming
☐ District of Columbia	☐ Maine	☐ New Jersey	☐ South Carolina	
☐ Florida	☐ Maryland	☐ New Mexico	☐ South Dakota	
☐ Georgia	☐ Massachusetts	☐ New York	☐ Tennessee	

3. A. Indicate legal status of *applicant.*

☐ Corporation ☐ Sole Proprietorship ☐ Other *(specify)* _____
☐ Partnership ☐ Limited Liability Company

B. Month *applicant's* fiscal year ends: _____

C. If other than a sole proprietor, indicate date and place *applicant* obtained its legal status (i.e., state or country where incorporated, where partnership agreement was filed, or where *applicant* entity was formed):

State/Country of formation: _____ Date of formation: _____ (MM/DD/YYYY)

Schedule A and, if applicable, Schedule B must be completed as part of all initial applications. Amendments to these schedules must be provided on Schedule C.

FORM BD **PAGE 3** (REV. 7/1999)	*Applicant* Name: _____ Date: _____ Firm CRD No.: _____	**OFFICIAL USE** (OFFICIAL USE ONLY)

4. If *applicant* is a sole proprietor, state full residence address and Social Security Number.

Social Security Number: _ _ _ - _ _ _ - _ _ _ _

_____

(Number and Street) (City) (State/Country) (Zip+4/Postal Code)

	YES	NO
5. A. Is *applicant* at the time of this filing *succeeding* to the business of a currently registered broker-dealer? *Do not report previous successions already reported on Form BD.* *If "Yes," contact CRD prior to submitting form; complete appropriate items on Schedule D, Page 1, Section III.*	☐	☐
B. Is *applicant* at the time of this filing applying to convert its registration from notice registration pursuant to Section 15(b)(11)(A) of the Securities Exchange Act of 1934 to full registration under Section 15(b)(1) of the Securities Exchange Act of 1934 in order to conduct business in securities other than security futures products?	☐	☐
6. Does *applicant* hold or maintain any funds or securities or provide clearing services for any other broker or dealer?	☐	☐
7. Does *applicant* refer or introduce customers to any other broker or dealer? *If "Yes," complete appropriate items on Schedule D, Page 1, Section IV.*	☐	☐
8. Does *applicant* have any arrangement with any other *person*, firm, or organization under which:		
A. any books or records of *applicant* are kept or maintained by such other *person*, firm or organization?	☐	☐
B. accounts, funds, or securities of the *applicant* are held or maintained by such other *person*, firm, or organization?	☐	☐
C. accounts, funds, or securities of customers of the *applicant* are held or maintained by such other *person*, firm or organization?	☐	☐
For purposes of 8B and 8C, do not include a bank or satisfactory control location as defined in paragraph (c) of Rule 15c3-3 under the Securities Exchange Act of 1934 (17 CFR 240.15c3-3). *If "Yes" to any part of Item 8, complete appropriate items on Schedule D, Page 1, Section IV.*		
9. Does any *person* not named in Item 1 or Schedules A, B, or C, directly or indirectly:		
A. *control* the management or policies of the *applicant* through agreement or otherwise?	☐	☐
B. wholly or partially finance the business of applicant?	☐	☐
Do not answer "Yes" to 9B if the person finances the business of the applicant through: 1) a public offering of securities made pursuant to the Securities Act of 1933; 2) credit extended in the ordinary course of business by suppliers, banks, and others; or 3) a satisfactory subordination agreement, as defined in Rule 15c3-1 under the Securities Exchange Act of 1934 (17 CFR 240.15c3-1). *If "Yes" to any part of Item 9, complete appropriate items on Schedule D, Page 1, Section IV.*		
10. A. Directly or indirectly, does *applicant control*, is *applicant controlled* by, or is *applicant* under common *control* with, any partnership, corporation, or other organization that is engaged in the securities or investment advisory business? *If "Yes" to Item 10A, complete appropriate items on Schedule D, Page 2, Section V.*	☐	☐
B. Directly or indirectly, is *applicant controlled* by any bank holding company, national bank, state member bank of the Federal Reserve System, state non-member bank, savings bank or association, credit union, or foreign bank? *If "Yes" to Item 10B, complete appropriate items on Schedule D, Page 3, Section VI.*	☐	☐
11. Use the appropriate DRP for providing details to "yes" answers to the questions in Item 11. Refer to the Explanation of Terms section of Form BD Instructions for explanations of italicized terms.		
CRIMINAL DISCLOSURE		
A. In the past ten years has the *applicant* or a *control affiliate*:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
B. In the past ten years has the *applicant* or a *control affiliate*:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a *misdemeanor involving*: investments or an *investment-related* business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐
(2) been *charged* with a *misdemeanor* specified in 11B(1)?	☐	☐

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PAGE 4
(REV. 7/1999)

Applicant Name: _____
Date: _____ Firm CRD No.: _____

OFFICIAL USE (OFFICIAL USE ONLY)

		YES	NO
REGULATORY ACTION DISCLOSURE	C. Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:		
	(1) *found* the *applicant* or a *control affiliate* to have made a false statement or omission?	☐	☐
	(2) *found* the *applicant* or a *control affiliate* to have been *involved* in a violation of its regulations or statutes?	☐	☐
	(3) *found* the *applicant* or a *control affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
	(4) entered an *order* against the *applicant* or a *control affiliate* in connection with *investment-related* activity?	☐	☐
	(5) imposed a civil money penalty on the *applicant* or a *control affiliate*, or *ordered* the *applicant* or a *control affiliate* to cease and desist from any activity?	☐	☐
REGULATORY ACTION DISCLOSURE	D. Has any other federal regulatory agency, any state regulatory agency, or *foreign financial regulatory authority*:		
	(1) ever *found* the *applicant or a control affiliate* to have made a false statement or omission or been dishonest, unfair, or unethical?	☐	☐
	(2) ever *found* the *applicant* or a *control affiliate* to have been *involved* in a violation of *investment-related* regulations or statutes?	☐	☐
	(3) ever *found* the *applicant* or a *control affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
	(4) in the past ten years, entered an *order* against the *applicant* or a *control affiliate* in connection with an *investment-related* activity?	☐	☐
	(5) ever denied, suspended, or revoked the *applicant's* or a *control affiliate's* registration or license or otherwise, by *order*, prevented it from associating with an *investment-related* business or restricted its activities?	☐	☐
	E. Has any *self-regulatory organization or* commodities exchange ever:		
	(1) *found* the *applicant* or a *control affiliate* to have made a false statement or omission?	☐	☐
	(2) *found* the *applicant* or a *control affiliate* to have been *involved* in a violation of its rules (other than a violation designated as a *"minor rule violation"* under a plan approved by the U.S. Securities and Exchange Commission)?	☐	☐
	(3) *found* the *applicant* or a *control affiliate* to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
	(4) disciplined the *applicant* or a *control affiliate* by expelling or suspending it from membership, barring or suspending its association with other members, or otherwise restricting its activities?	☐	☐
	F. Has the *applicant's* or a *control affiliate's* authorization to act as an attorney, accountant, or federal contractor ever been revoked or suspended?	☐	☐
	G. Is the *applicant* or a *control affiliate* now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of 11C, D, or E?	☐	☐
CIVIL JUDICIAL DISCLOSURE	H. (1) Has any domestic or foreign court:		
	(a) in the past ten years, *enjoined* the *applicant* or a *control affiliate* in connection with any *investment-related* activity?	☐	☐
	(b) ever *found* that the *applicant* or a *control affiliate* was *involved* in a violation of *investment-related* statutes or regulations?	☐	☐
	(c) ever dismissed, pursuant to a settlement agreement, an *investment-related* civil action brought against the *applicant* or *control affiliate* by a state or *foreign financial regulatory authority*?	☐	☐
	(2) Is the *applicant* or a *control affiliate* now the subject of any civil *proceeding* that could result in a "yes" answer to any part of 11H(1)?	☐	☐
FINANCIAL DISCLOSURE	I. In the past ten years has the *applicant* or a *control affiliate* of the *applicant* ever been a securities firm or a *control affiliate* of a securities firm that:		
	(1) has been the subject of a bankruptcy petition?	☐	☐
	(2) has had a trustee appointed or a direct payment procedure initiated under the Securities Investor Protection Act?	☐	☐
	J. Has a bonding company ever denied, paid out on, or revoked a bond for the *applicant*?	☐	☐
	K. Does the *applicant* have any unsatisfied judgments or liens against it?	☐	☐

FORM BD **PAGE 5** (REV. 7/1999)	*Applicant* Name:_____ Date:_____ Firm CRD No.: _____	**OFFICIAL USE**	OFFICIAL USE ONLY

12. Check types of business engaged in (or to be engaged in, if not yet active) by *applicant*. Do not check any category that accounts for (or is expected to account for) less than 1% of annual revenue from the securities or investment advisory business.

A.	Exchange member engaged in exchange commission business other than floor activities	☐EMC
B.	Exchange member engaged in floor activities	☐EMF
C.	Broker or dealer making inter-dealer markets in corporate securities over-the-counter	☐IDM
D.	Broker or dealer retailing corporate equity securities over-the-counter	☐BDR
E.	Broker or dealer selling corporate debt securities	☐BDD
F.	Underwriter or selling group participant (corporate securities other than mutual funds)	☐USG
G.	Mutual fund underwriter or sponsor	☐MFU
H.	Mutual fund retailer	☐MFR
I.	1. U.S. government securities dealer	☐GSD
	2. U.S. government securities broker	☐GSB
J.	Municipal securities dealer	☐MSD
K.	Municipal securities broker.	☐MSB
L.	Broker or dealer selling variable life insurance or annuities	☐VLA
M.	Solicitor of time deposits in a financial institution	☐SSL
N.	Real estate syndicator.	☐RES
O.	Broker or dealer selling oil and gas interests	☐OGI
P.	Put and call broker or dealer or option writer	☐PCB
Q.	Broker or dealer selling securities of only one issuer or associate issuers (other than mutual funds)	☐BIA
R.	Broker or dealer selling securities of non-profit organizations (e.g., churches, hospitals)	☐NPB
S.	Investment advisory services	☐IAD
T.	1. Broker or dealer selling tax shelters or limited partnerships in primary distributions	☐TAP
	2. Broker or dealer selling tax shelters or limited partnerships in the secondary market	☐TAS
U.	Non-exchange member arranging for transactions in listed securities by exchange member	☐NEX
V.	Trading securities for own account	☐TRA
W.	Private placements of securities	☐PLA
X.	Broker or dealer selling interests in mortgages or other receivables	☐MRI
Y.	Broker or dealer involved in a networking, kiosk or similar arrangement with a:	
	1. bank, savings bank or association, or credit union	☐BNA
	2. insurance company or agency	☐INA
Z.	Broker or dealer effecting transactions in security futures products	☐SFP
AA.	Other *(give details on Schedule D, Page 1, Section II)*	☐OTH

		YES	NO
13. A.	Does *applicant* effect transactions in commodity futures (other than security futures products), commodities or commodity options as a broker for others or as a dealer for its own account?	☐	☐
B.	Does *applicant* engage in any other non-securities business? *If "yes," describe each other business briefly on Schedule D, Page 1, Section II.*	☐	☐

Schedule A of FORM BD

DIRECT OWNERS AND EXECUTIVE OFFICERS

(Answer for Form BD Item 3)
(REV. 7/1999)

Applicant Name:_____

Date:_____ Firm CRD No.: _____

OFFICIAL USE

1. Use Schedule A only in new applications to provide information on the **direct** owners and executive officers of the *applicant*. Use Schedule B in new applications to provide information on **indirect** owners. File all amendments on Schedule C. **Complete each column.**

2. List below the names of:

   (a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, Director, and individuals with similar status or functions;
   (b) in the case of an *applicant* that is a corporation, each shareholder that directly owns 5% or more of a class of a voting security of the *applicant*, unless the *applicant* is a public reporting company (a company subject to Sections 12 or 15(d) of the Securities Exchange Act of 1934);
   Direct owners include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5% or more of a class of a voting security of the *applicant*. For purposes of this Schedule, a *person* beneficially owns any securities (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant or right to purchase the security.
   (c) in the case of an *applicant* that is a partnership, **all** general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of the partnership's capital; and
   (d) in the case of a trust that directly owns 5% or more of a class of a voting security of the *applicant*, or that has the right to receive upon dissolution, or has contributed, 5% or more of the *applicant's* capital, the trust and each trustee.
   (e) in the case of an *applicant* that is a Limited Liability Company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 5% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers.

3. Are there any indirect owners of the *applicant* required to be reported on Schedule B? ☐ Yes ☐ No

4. In the "DE/FE/I" column, enter "DE" if the owner is a domestic entity, or enter "FE" if owner is an entity incorporated or domiciled in a foreign country, or enter "I" if the owner is an individual.

5. Complete the "Title or Status" column by entering board/management titles; status as partner, trustee, sole proprietor, or shareholder; and for shareholders, the class of securities owned (if more than one is issued).

6. Ownership codes are: NA - less than 5% B - 10% but less than 25% D - 50% but less than 75%
   A - 5% but less than 10% C - 25% but less than 50% E - 75% or more

7. (a) In the "*Control Person*" column, enter "Yes" if *person* has *"control"* as defined in the instructions to this form, and enter "No" if the *person* does not have *control*. Note that under this definition most executive officers and all 25% owners, general partners, and trustees would be "control persons".

   (b) In the "PR" column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Title or Status	Date Title or Status Acquired		Ownership Code	Control Person		CRD No. If None: S.S. No., IRS Tax No. or Employer ID.	Official Use Only
			MM	YYYY			PR		

Schedule B of FORM BD **INDIRECT OWNERS** (Answer for Form BD Item 3) (REV. 7/1999)	*Applicant* Name:_____ Date:_____ Firm CRD No.: _____	**OFFICIAL USE**

1. Use Schedule B only in new applications to provide information on the **indirect** owners of the *applicant.* Use Schedule A in new applications to provide information on **direct** owners. File all amendments on Schedule C. **Complete each column.**

2. With respect to each owner listed on Schedule A, (except individual owners), list below:

   (a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25% or more of a class of a voting security of that corporation;

   For purposes of this Schedule, a *person* beneficially owns any securities (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the *right to acquire*, within 60 days, through the exercise of any option, warrant or right to purchase the security.

   (b) in the case of an owner that is a partnership, **all** general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital; and

   (c) in the case of an owner that is a trust, the trust and each trustee.

   (d) in the case of an owner that is a Limited Liability Company ("LCC"), (i) those members that have the right to receive upon dissolution, or have contributed, 25% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers.

3. Continue up the chain of ownership listing all 25% owners at each level. Once a public reporting company (a company subject to Sections 12 or 15(d) of the Securities Exchange Act of 1934) is reached, no ownership information further up the chain of ownership need be given.

4. In the "DE/FE/I" column, enter "DE" if the owner is a domestic entity, or enter "FE" if owner is an entity incorporated or domiciled in a foreign country, or enter "I" if the owner is an individual.

5. Complete the "Status" column by entering status as partner, trustee, shareholder, etc., and if shareholder, class of securities owned (if more than one is issued).

6. Ownership codes are: C - 25% but less than 50% D - 50% but less than 75% E - 75% or more F - Other General Partners

7. (a) In the *"Control Person"* column, enter "Yes" if *person* has *"control"* as defined in the instructions to this form, and enter "No" if the *person* does not have *control*. Note that under this definition most executive officers and all 25% owners, general partners, and trustees would be *"control persons"*.
   (b) In the "PR" column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Entity in Which Interest is Owned	Status	Date Status Acquired		Ownership Code	*Control Person*		CRD No. If None: S.S. No., IRS Tax No. or Employer ID.	Official Use Only
				MM	YYYY			PR		

Schedule C of FORM BD **AMENDMENTS TO** **SCHEDULES A & B** (Amendments to answers for Form BD Item 3) (REV. 7/1999)	*Applicant* Name:_____ Date:_____ Firm CRD No.: _____	**OFFICIAL USE**

1. This Schedule C is used to amend Schedules A and B of Form BD. Refer to those schedules for specific instructions for completing this Schedule C. **Complete each column.** File with a completed Execution Page (Page 1).

2. In the Type of Amendment ("Type of Amd.") column, indicate "A" (addition), "D" (deletion), or "C" (change in information about the same *person*).

3. Ownership codes are: NA - less than 5% A - 5% but less than 10% B - 10% but less than 25% C - 25% but less than 50% D - 50% but less than 75% E - 75% or more F - Other General Partners

4. **List below all changes to Schedule A: (DIRECT OWNERS AND EXECUTIVE OFFICERS)**

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Type of Amd.	Title or Status	Date Title or Status Acquired		Ownership Code	*Control Person*		CRD No. If None: S. S. No., IRS Tax No. or Employer ID.	Official Use Only
				MM	YYYY			PR		

5. **List below all changes to Schedule B: (INDIRECT OWNERS)**

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Type of Amd.	Entity in Which Interest is Owned	Status	Date Status Acquired		Ownership Code	*Control Person*		CRD No. If None: S.S. No., IRS Tax No. or Employer ID.	Official Use Only
					MM	YYYY			PR		

Schedule D of FORM BD **Page 1** (REV. 7/1999)	*Applicant* Name:_____ Date:_____ Firm CRD No.: _____	**OFFICIAL USE**	OFFICIAL USE ONLY

Use this Schedule D Page 1 to report details for items listed below. Report only new information or changes/updates to previously submitted details. Do not repeat previously submitted information.

This is an ☐ INITIAL ☐ AMENDED detail filing for the Form BD items checked below:

SECTION I ***Other Business Names***

(Check if applicable) ☐ Item 1C(2)

List each of the "other" names and the *jurisdiction(s)* in which they are used.

1. Name	*Jurisdiction*	2. Name	*Jurisdiction*
3. Name	*Jurisdiction*	4. Name	*Jurisdiction*

SECTION II ***Other Business***

(Check one) ☐ Item 12Z ☐ Item 13B

Applicant must complete a separate Schedule D Page 1 for each affirmative response in this section.

Briefly describe any other business (ITEM 12Z); or any other non-securities business (ITEM 13B). Use reverse side of this sheet for additional comments if necessary.

SECTION III ***Successions***

(Check if applicable) ☐ Item 5

Date of Succession MM DD YYYY / /	*Name of Predecessor*	
Firm CRD Number	IRS Employer Identification Number (if any)	SEC File Number (if any)

Briefly describe details of the *succession* including any assets or liabilities not assumed by the *successor*. Use reverse side of this sheet for additional comments if necessary.

SECTION IV ***Introducing and Clearing Arrangements / Control Persons / Financings***

(Check one) ☐ Item 7 ☐ Item 8A ☐ Item 8B ☐ Item 8C ☐ Item 9A ☐ Item 9B

Applicant must complete a separate Schedule D Page 1 for each affirmative response in this section including any multiple responses to any item. Complete the "Effective Date" box with the Month, Day and Year that the arrangement or agreement became effective. When reporting a change or termination of an arrangement or agreement, enter the effective date of the change.

Firm or Organization Name		CRD Number (if any)	
Business Address *(Street, City, State/Country, Zip+4 Postal Code)*		Effective Date MM DD YYYY / /	Termination Date MM DD YYYY / /
Individual Name (if applicable) *(Last, First, Middle)*		CRD Number (if any)	
Business Address (if applicable) *(Street, City, State/Country, Zip+4 Postal Code)*		Effective Date MM DD YYYY / /	Termination Date MM DD YYYY / /

Briefly describe the nature of reference or arrangement (ITEM 7 or ITEM 8); the nature of the *control* or agreement (ITEM 9A); or the method and amount of financing (ITEM 9B). Use reverse side of this sheet for additional comments if necessary.

Schedule D of FORM BD

Page 2

(REV. 7/1999)

Applicant Name:_____

Date:_____ Firm CRD No.: _____

OFFICIAL USE

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Use this Schedule D Page 2 to report details for Item 10A. Report only new information or changes/updates to previously submitted details. Do not repeat previously submitted information. Supply details for all partnerships, corporations, organizations, institutions and individuals necessary to answer each item completely. Use additional copies of Schedule D Page 2 if necessary.

Use the "Effective Date" box to enter the Month, Day, and Year that the affiliation was effective or the date of the most recent change in the affiliation.

This is an ☐ INITIAL ☐ AMENDED detail filing for Form BD Item 10A

☐ 10A. Directly or indirectly, does *applicant* control, is *applicant controlled* by, or is *applicant* under common *control* with, any partnership, corporation, or other organization that is engaged in the securities or investment advisory business?

SECTION V ***Complete this section for control issues relating to ITEM 10A only.***

The details supplied relate to:

1	Partnership, Corporation, or Organization Name	CRD Number (if any)

(check only one)

This Partnership, Corporation, or Organization ☐ *controls applicant* ☐ is *controlled* by *applicant* ☐ is under common *control* with *applicant*

Business Address *(Street, City, State/Country, Zip+4/Postal Code)*	Effective Date MM DD YYYY / /	Termination Date MM DD YYYY / /

Is Partnership, Corporation or Organization a foreign entity? ☐ Yes ☐ No	If Yes, provide country of domicile or incorporation:	Check "Yes" or "No" for activities of this partnership, corporation, or organization: ▶ Securities Activities: ☐ Yes ☐ No	Investment Advisory Activities: ☐ Yes ☐ No

Briefly describe the *control* relationship. Use reverse side of this sheet for additional comments if necessary.

2	Partnership, Corporation, or Organization Name	CRD Number (if any)

(check only one)

This Partnership, Corporation, or Organization ☐ *controls applicant* ☐ is *controlled* by *applicant* ☐ is under common *control* with *applicant*

Business Address *(Street, City, State/Country, Zip+4/Postal Code)*	Effective Date MM DD YYYY / /	Termination Date MM DD YYYY / /

Is Partnership, Corporation or Organization a foreign entity? ☐ Yes ☐ No	If Yes, provide country of domicile or incorporation:	Check "Yes" or "No" for activities of this partnership, corporation, or organization: ▶ Securities Activities: ☐ Yes ☐ No	Investment Advisory Activities: ☐ Yes ☐ No

Briefly describe the *control* relationship. Use reverse side of this sheet for additional comments if necessary.

3	Partnership, Corporation, or Organization Name	CRD Number (if any)

(check only one)

This Partnership, Corporation, or Organization ☐ *controls applicant* ☐ is *controlled* by *applicant* ☐ is under common *control* with *applicant*

Business Address *(Street, City, State/Country, Zip+4/Postal Code)*	Effective Date MM DD YYYY / /	Termination Date MM DD YYYY / /

Is Partnership, Corporation or Organization a foreign entity? ☐ Yes ☐ No	If Yes, provide country of domicile or incorporation:	Check "Yes" or "No" for activities of this partnership, corporation, or organization: ▶ Securities Activities: ☐ Yes ☐ No	Investment Advisory Activities: ☐ Yes ☐ No

Briefly describe the *control relationship*. Use reverse side of this sheet for additional comments if necessary

If *applicant* has more than 3 organizations to report, complete additional Schedule D Page 2s.

Schedule D of FORM BD **Page 3** (REV. 7/1999)	*Applicant* Name:_____ Date:_____ Firm CRD No.: _____	**OFFICIAL USE**	OFFICIAL USE ONLY

Use this Schedule D Page 3 to report details for Item 10B. Report only new information or changes/updates to previously submitted details. Do not repeat previously submitted information. Supply details for all partnerships, corporations, organizations, institutions and individuals necessary to answer each item completely. Use additional copies of Schedule D Page 3 if necessary.

Use the "Effective Date" box to enter the Month, Day, and Year that the affiliation was effective or the date of the most recent change in the affiliation.

This is an ☐ INITIAL ☐ AMENDED detail filing for Form BD Item 10B

☐ 10B. Directly or indirectly, is *applicant controlled* by any bank holding company, national bank, state member bank of the Federal Reserve System, state non-member bank, savings bank or association, credit union, or foreign bank?

SECTION VI ***Complete this section for control issues relating to ITEM 10B only.***

Provide the details for each organization or institution that *controls* the *applicant*, including each organization or institution in the *applicant's* chain of ownership. The details supplied relate to:

1	Financial Institution Name	CRD Number (if applicable)
Institution Type *(i.e., bank holding company, national bank, state member bank of the Federal Reserve System, state non-member bank, savings association, credit union, or foreign bank)*		Effective Date MM DD YYYY / / Termination Date MM DD YYYY / /
Business Address *(Street, City, State/Country, Zip+4/Postal Code)*		If foreign, country of domicile or incorporation
Briefly describe the *control* relationship. Use reverse side of this sheet for additional comments if necessary.		

2	Financial Institution Name	CRD Number (if applicable)
Institution Type *(i.e., bank holding company, national bank, state member bank of the Federal Reserve System, state non-member bank, savings association, credit union, or foreign bank)*		Effective Date MM DD YYYY / / Termination Date MM DD YYYY / /
Business Address *(Street, City, State/Country, Zip+4/Postal Code)*		If foreign, country of domicile or incorporation
Briefly describe the *control* relationship. Use reverse side of this sheet for additional comments if necessary.		

3	Financial Institution Name	CRD Number (if applicable)
Institution Type *(i.e., bank holding company, national bank, state member bank of the Federal Reserve System, state non-member bank, savings association, credit union, or foreign bank)*		Effective Date MM DD YYYY / / Termination Date MM DD YYYY / /
Business Address *(Street, City, State/Country, Zip+4/Postal Code)*		If foreign, country of domicile or incorporation
Briefly describe the *control* relationship. Use reverse side of this sheet for additional comments if necessary.		

4	Financial Institution Name	CRD Number (if applicable)
Institution Type *(i.e., bank holding company, national bank, state member bank of the Federal Reserve System, state non-member bank, savings association, credit union, or foreign bank)*		Effective Date MM DD YYYY / / Termination Date MM DD YYYY / /
Business Address *(Street, City, State/Country, Zip+4/Postal Code)*		If foreign, country of domicile or incorporation
Briefly describe the *control* relationship. Use reverse side of this sheet for additional comments if necessary.		

If *applicant* has more than 4 organizations/institutions to report, complete additional Schedule D page 3s.

Schedule E of FORM BD	*Applicant* Name:_____	OFFICIAL USE
(REV. 7/1999)	Date:_____ Firm CRD No.: _____	

INSTRUCTIONS

General: Use this schedule to register or report branch offices or other business locations of the *applicant*. Repeat Items 1-12 for each branch office or other business location. Each item must be completed unless otherwise noted. Use additional copies of this schedule as necessary. If this branch office or other business location is using a name in connection with securities activities other than the *applicant's* name, such name must be reported under Item 1C(2) on Page 1 of this Form.

Specific:

Item 1. Specify only one box. Check "Add" when a branch office or other business location is opened and the *applicant* is filing the initial notice, "Delete" when a branch office or other business location is closed, and "Amendment" to indicate any other change to previously filed information.

Item 2. CRD will assign this branch number when the *applicant* adds a branch office or other business location as discussed in Item 1 above. If known, complete this item for all deletions and amendments.

Item 3. The Billing Code is an alpha/numeric value consisting of up to eight characters. It is the responsibility of the firm to establish and maintain its own unique billing codes. This is not a required field.

Item 4. Complete this item for all entries. A physical location must be included; post office box designations alone are not sufficient.

Item 5. Complete this item only when the *applicant* changes the address of an existing branch office or other business location.

Item 6. If the branch office or other business location occupies or shares space on premises within a bank, savings bank or association, credit union, or other financial institution, enter the name of the institution in the space provided.

Item 7. Complete this item for all entries. Enter the name of the supervisor or registered representative in charge who is physically at this location.

Item 8. Provide the CRD number for the branch office supervisor named in Item 7.

Item 9. Complete this item for all entries. Provide the date that the branch office or other business location was opened (ADD), closed (DELETE), or the effective date of the change (AMENDMENT).

Item 10. Check "Yes" or "No" to denote whether the location will be an Office of Supervisory Jurisdiction (OSJ) as defined in NASD Rule 3010.

Item 11. Check "Yes" or "No" to denote whether the location is a business location that will operate pursuant to a written agreement or contract (other than an insurance agency agreement) with the main office and any one or more of the following will apply: the location (A) assumes liability for its own expenses or has its expenses paid by a party other than the *applicant;* (B) has primary responsibility for decisions relating to the employment and remuneration of its registered representatives; (C) deems 5% or more of its total registered representatives to be "independent contractors" for tax purposes; or (D) engages in separate market making and/or underwriting activities.

Item 12. Check the appropriate box(es) if the branch or other business location is registering with the NASD or registering or reporting with a *jurisdiction.*

1. *Check only one box:* ☐ Add ☐ Delete ☐ Amendment

2. CRD Branch Number _____

3. Billing Code _____

4. _____ Street
_____ P.O. Box (if applicable), Suite, Floor
_____ City, State/Country, Zip Code + 4/Postal Code

If applicant is changing the address, enter the new address in Item 5.

5. _____ Street
_____ P.O. Box (if applicable), Suite, Floor
_____ City, State/Country, Zip Code + 4/Postal Code

6. _____ Institution Name (if applicable)

7. _____ Supervisor Name

8. _____ CRD Number of Supervisor

9. _____ Effective Date (MM/DD/YYYY)

10. OSJ ☐ Yes ☐ No

11. ☐ Yes ☐ No
If Yes, indicate each Item 11 subset that applies:
☐ A ☐ B ☐ C ☐ D

12. ☐ NASD ☐ *Jurisdiction*

1. *Check only one box:* ☐ Add ☐ Delete ☐ Amendment

2. CRD Branch Number _____

3. Billing Code _____

4. _____ Street
_____ P.O. Box (if applicable), Suite, Floor
_____ City, State/Country, Zip Code + 4/Postal Code

If applicant is changing the address, enter the new address in Item 5.

5. _____ Street
_____ P.O. Box (if applicable), Suite, Floor
_____ City, State/Country, Zip Code + 4/Postal Code

6. _____ Institution Name (if applicable)

7. _____ Supervisor Name

8. _____ CRD Number of Supervisor

9. _____ Effective Date (MM/DD/YYYY)

10. OSJ ☐ Yes ☐ No

11. ☐ Yes ☐ No
If Yes, indicate each Item 11 subset that applies:
☐ A ☐ B ☐ C ☐ D

12. ☐ NASD ☐ *Jurisdiction*

CRIMINAL DISCLOSURE REPORTING PAGE (BD)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP BD) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to ***Items 11A and 11B*** of Form BD;

Check ☑ item(s) being responded to:

11A In the past ten years has the *applicant* or a *control affiliate*:

☐ (1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?

☐ (2) been *charged* with any *felony*?

11B In the past ten years has the *applicant* or a *control affiliate*:

☐ (1) been convicted or pled guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a *misdemeanor involving:* investments or an *investment-related* business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?

☐ (2) been *charged* with a *misdemeanor* specified in 11B(1)?

Use a separate DRP for each event or *proceeding*. An event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

Multiple counts of the same charge arising out of the same event(s) should be reported on the same DRP. Unrelated criminal actions, including separate cases arising out of the same event, must be reported on separate DRPs. Use this DRP to report all charges arising out of the same event. One event may result in more than one affirmative answer to the above items.

If a *control affiliate* is an individual or organization registered through the CRD, such *control affiliate* need only complete Part I of the *applicant's* appropriate DRP (BD). Details of the event must be submitted on the *control affiliate's* appropriate DRP (BD) or DRP (U-4). If a *control affiliate* is an individual or organization not registered through the CRD, provide complete answers to all the items on the *applicant's* appropiate DRP (BD). The completion of this DRP does not relieve the *control affiliate* of its obligation to update its CRD records.

Applicable court documents (i.e., criminal complaint, information or indictment as well as judgment of conviction or sentencing documents) must be provided to the CRD if not previously submitted. Documents will not be accepted as disclosure in lieu of answering the questions on this DRP.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):

☐ The *Applicant*

☐ *Applicant* and one or more *control affiliate(s)*

☐ One or more *control affiliate(s)*

If this DRP is being filed for a *control affiliate*, give the full name of the *control affiliate* below (for individuals, Last name, First name, Middle name).

If the *control affiliate* is registered with the CRD, provide the CRD number. If not, Indicate "non-registered" by checking the appropriate checkbox.

NAME OF APPLICANT	*APPLICANT CRD NUMBER*

BD DRP - *CONTROL AFFILIATE*

CRD NUMBER	This *Control Affiliate* is ☐ Firm ☐ Individual
	Registered: ☐ Yes ☐ No

NAME (For individuals, Last, First, Middle)

☐ This DRP should be removed from the BD record because the *control affiliate(s)* are no longer associated with the BD.

B. If the *control affiliate* is registered through the CRD, has the *control affiliate* submitted a DRP (with Form U-4) or BD DRP to the CRD System for the event? If the answer is "Yes," no other information on this DRP must be provided.

☐ Yes ☐ No

NOTE: The completion of this Form does not relieve the *control affiliate* of its obligation to update its CRD records.

(continued)

CRIMINAL DISCLOSURE REPORTING PAGE (BD)

(continuation)

PART II

1. If charge(s) were brought against an organization over which the *applicant* or *control affiliate* exercise(d) *control*: Enter organization name, whether or not the organization was an *investment-related* business and the *applicant's* or *control affiliate's* position, title or relationship.

2. Formal Charge(s) were brought in: (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).

3. **Event Disclosure Detail** (Use this for both organizational and individual charges.)

   A. Date First Charged (MM/DD/YYYY): ☐ Exact ☐ Explanation

   If not exact, provide explanation:

   B. Event Disclosure Detail (include Charge(s)/Charge Description(s), and for each charge provide: 1. number of counts, 2. *felony* or *misdemeanor*, 3. plea for each charge, and 4. product type if charge is *investment-related*):

   C. Did any of the Charge(s) within the Event involve a *Felony*? ☐ Yes ☐ No

   D. Current status of the Event? ☐ Pending ☐ On Appeal ☐ Final

   E. Event Status Date (complete unless status is Pending) (MM/DD/YYYY): ☐ Exact ☐ Explanation

   If not exact, provide explanation:

4. **Disposition Disclosure Detail:** Include for each charge, A. Disposition Type [e.g., convicted, acquitted, dismissed, pretrial, etc.], B. Date, C. Sentence/Penalty, D. Duration [if sentence-suspension, probation, etc.], E. Start Date of Penalty, F. Penalty/Fine Amount and G. Date Paid.

5. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was the subject of the charge(s) occurred. (The information must fit within the space provided.)

REGULATORY ACTION DISCLOSURE REPORTING PAGE (BD)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP BD) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to ***Items 11C, 11D, 11E, 11F or 11G*** of Form BD;
Check ☑ item(s) being responded to:

11C. Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:
- ☐ (1) *found* the *applicant* or a *control affiliate* to have made a false statement or omission?
- ☐ (2) *found* the *applicant* or a *control affiliate* to have been *involved* in a violation of its regulations or statutes?
- ☐ (3) *found* the *applicant* or a *control affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?
- ☐ (4) entered an *order* against the *applicant* or a *control affiliate* in connection with *investment-related* activity?
- ☐ (5) imposed a civil money penalty on the *applicant* or a *control affiliate*, or ordered the *applicant* or a *control affiliate* to cease and desist from any activity?

11D. Has any other federal regulatory agency, any state regulatory agency, or *foreign financial regulatory authority*:
- ☐ (1) ever *found* the *applicant* or a *control affiliate* to have made a false statement or omission or been dishonest, unfair, or unethical?
- ☐ (2) ever *found* the *applicant* or a *control affiliate* to have been *involved* in a violation of *investment-related* regulations or statutes?
- ☐ (3) ever *found* the *applicant* or a *control affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?
- ☐ (4) in the past ten years, entered an *order* against the *applicant* or a *control affiliate* in connection with an *investment-related* activity?
- ☐ (5) ever denied, suspended, or revoked the *applicant's* or a *control affiliate's* registration or license or otherwise, by *order*, prevented it from associating with an *investment-related* business or restricted its activities?

11E. Has any *self-regulatory organization* or commodities exchange ever:
- ☐ (1) *found* the *applicant* or a *control affiliate* to have made a false statement or omission?
- ☐ (2) *found* the *applicant* or a *control affiliate* to have been *involved* in a violation of its rules (other than a violation designated as a *"minor rule violation"* under a plan approved by the U.S. Securities and Exchange Commission)?
- ☐ (3) *found* the *applicant* or a *control affiliate* to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?
- ☐ (4) disciplined the *applicant* or a *control affiliate* by expelling or suspending it from membership, barring or suspending its association with other members, or otherwise restricting its activities?

11F. ☐ Has the *applicant's* or a *control affiliate's* authorization to act as an attorney, accountant, or federal contractor ever been revoked or suspended?

11G. ☐ Is the *applicant* or a *control affiliate* now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of 11C, D, or E?

Use a separate DRP for each event or *proceeding*. An event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

One event may result in more than one affirmative answer to Items 11C, 11D, 11E, 11F or 11G. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details for each action on a separate DRP.

It is not a requirement that documents be provided for each event or *proceeding*. Should they be provided, they will not be accepted as disclosure in lieu of answering the questions on this DRP.

If a *control affiliate* is an individual or organization registered through the CRD, such *control affiliate* need only complete Part I of the *applicant's* appropriate DRP (BD). Details of the event must be submitted on the *control affiliate's* appropriate DRP (BD) or DRP (U-4). If a *control affiliate* is an individual or organization not registered through the CRD, provide complete answers to all the items on the *applicant's* appropriate DRP (BD). The completion of this DRP does not relieve the *control affiliate* of its obligation to update its CRD records.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):

☐ The *Applicant*
☐ *Applicant* and one or more *control affiliate(s)*
☐ One or more *control affiliate(s)*

If this DRP is being filed for a *control affiliate*, give the full name of the *control affiliate* below (for individuals, Last name, First name, Middle name).

If the *control affiliate* is registered with the CRD, provide the CRD number. If not, indicate "non-registered" by checking the appropriate checkbox.

NAME OF *APPLICANT*	*APPLICANT* CRD NUMBER

BD DRP - *CONTROL AFFILIATE*

CRD NUMBER	This *Control Affiliate* is ☐ Firm ☐ Individual

Registered: ☐ Yes ☐ No

NAME (For individuals, Last, First, Middle)

☐ This DRP should be removed from the BD record because the *control affiliate(s)* are no longer associated with the BD.

B. If the *control affiliate* is registered through the CRD, has the *control affiliate* submitted a DRP (with Form U-4) or BD DRP to the CRD System for the event? If the answer; "Yes," no other information on this DRP must be provided.

☐ Yes ☐ No

NOTE: The completion of this form does not relieve the *control affiliate* of its obligation to update its CRD records.

(continued)

REGULATORY ACTION DISCLOSURE REPORTING PAGE (BD)

(continuation)

PART II

1. Regulatory Action initiated by:
   ☐ SEC ☐ Other Federal ☐ State ☐ *SRO* ☐ Foreign
   (Full name of regulator, *foreign financial regulatory authority*, federal, state or *SRO*)

2. Principal Sanction: (check appropriate item)

☐ Civil and Administrative Penalty(ies)/Fine(s)	☐ Disgorgement	☐ Restitution
☐ Bar	☐ Expulsion	☐ Revocation
☐ Cease and Desist	☐ Injunction	☐ Suspension
☐ Censure	☐ Prohibition	☐ Undertaking
☐ Denial	☐ Reprimand	☐ Other

   Other Sanctions:

3. Date Initiated (MM/DD/YYYY): ☐ Exact ☐ Explanation

   If not exact, provide explanation:

4. Docket/Case Number:

5. *Control Affiliate* Employing Firm when activity occurred which led to the regulatory action (if applicable):

6. Principal Product Type: (check appropriate item)

☐ Annuity(ies) - Fixed	☐ Derivative(s)	☐ Investment Contract(s)
☐ Annuity(ies) - Variable	☐ Direct Investment(s) - DPP & LP Interest(s)	☐ Money Market Fund(s)
☐ CD(s)	☐ Equity - OTC	☐ Mutual Fund(s)
☐ Commodity Option(s)	☐ Equity Listed (Common & Preferred Stock)	☐ No Product
☐ Debt - Asset Backed	☐ Futures - Commodity	☐ Options
☐ Debt - Corporate	☐ Futures - Financial	☐ Penny Stock(s)
☐ Debt - Government	☐ Index Option(s)	☐ Unit Investment Trust(s)
☐ Debt - Municipal	☐ Insurance	☐ Other

   Other Product Types:

7. Describe the allegations related to this regulatory action. (The information must fit within the space provided.):

8. Current Status? ☐ Pending ☐ On Appeal ☐ Final

9. If on appeal, regulatory action appealed to: (SEC, *SRO*, Federal or State Court) and Date Appeal Filed:

(continued)

REGULATORY ACTION DISCLOSURE REPORTING PAGE (BD)

(continuation)

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.

10. How was matter resolved: (check appropriate item)

☐ Acceptance, Waiver & Consent (AWC)	☐ Decision & Order of Offer of Settlement	☐ Settled
☐ Consent	☐ Dismissed	☐ Stipulation and Consent
☐ Decision	☐ Order	☐ Vacated

11. Resolution Date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation:

12. A. Were any of the following Sanctions Ordered? (Check all appropriate items):

☐ Monetary/Fine ☐ Revocation/Expulsion/Denial ☐ Disgorgement/Restitution

Amount: $ ☐ Censure ☐ Cease and Desist/Injunction ☐ Bar ☐ Suspension

B. Other Sanctions Ordered:

C. Sanction detail: If suspended, *enjoined* or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against *applicant* or *control affiliate,* date paid and if any portion of penalty was waived:

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (The information must fit within the space provided.)

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (BD)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP BD) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to ***Item 11H*** of Form BD;

Check ☑ item(s) being responded to:

11H(1) Has any domestic or foreign court:

- ☐ (a) in the past ten years, *enjoined* the *applicant* or a *control affiliate* in connection with any *investment-related* activity?
- ☐ (b) ever *found* that the *applicant* or a *control affiliate* was *involved* in a violation of *investment-related* statutes or regulations?
- ☐ (c) ever dismissed, pursuant to a settlement agreement, an *investment-related* civil action brought against the *applicant* or a *control affiliate* by a state or *foreign financial regulatory authority*?

11H(2) ☐ Is the *applicant* or a *control affiliate* now the subject of any civil *proceeding* that could result in a "yes" answer to any part of 11H?

Use a separate DRP for each event or *proceeding*. An event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

One event may result in more than one affirmative answer to Item 11H. Use only one DRP to report details related to the same event. Unrelated civil judicial actions must be reported on separate DRPs.

It is not a requirement that documents be provided for each event or *proceeding*. Should they be provided, they will not be accepted as disclosure in lieu of answering the questions on this DRP.

If a *control affiliate* is an individual or organization registered through the CRD, such *control affiliate* need only complete Part I of the *applicant's* appropriate DRP (BD). Details of the event must be submitted on the *control affiliate's* appropriate DRP (BD) or DRP (U-4). If a *control affiliate* is an individual or organization not registered through the CRD, provide complete answers to all the items on the *applicant's* appropriate DRP (BD). The completion of this DRP does not relieve the *control affiliate* of its obligation to update its CRD records.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):

- ☐ The *Applicant*
- ☐ *Applicant* and one or more *control affiliate(s)*
- ☐ One or more *control affiliate(s)*

If this DRP is being filed for a *control affiliate*, give the full name of the *control affiliate* below (for individuals, Last name, First name, Middle name).

If the *control affiliate* is registered with the CRD, provide the CRD number. If not, indicate "non-registered" by checking the appropriate checkbox.

NAME OF *APPLICANT*	*APPLICANT* CRD NUMBER

BD DRP - *CONTROL AFFILIATE*

CRD NUMBER

This *Control Affiliate* is ☐ Firm ☐ Individual

Registered: ☐ Yes ☐ No

NAME (For individuals, Last, First, Middle)

☐ This DRP should be removed from the BD record because the *control affiliate(s)* are no longer associated with the BD.

B. If the *control affiliate* is registered through the CRD, has the *control affiliate* submitted a DRP (with Form U-4) or BD DRP to the CRD System for the event? If the answer is "Yes," no other information on this DRP must be provided.

☐ Yes ☐ No

NOTE: The completion of this Form does not relieve the *control affiliate* of its obligation to update its CRD records.

PART II

1. Court Action initiated by: (Name of regulator, *foreign financial regulatory authority*, *SRO*, commodities exchange, agency, firm, private plaintiff, etc.)

(continued)

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (BD)

(continuation)

2. Principal Relief Sought: (check appropriate item)

☐ Cease and Desist ☐ Disgorgement ☐ Money Damages (Private/Civil Complaint) ☐ Restraining Order
☐ Civil Penalty(ies)/Fine(s) ☐ Injunction ☐ Restitution ☐ Other _____

Other Relief Sought:

3. Filing Date of Court Action (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

4. Principal Product Type: (check appropriate item)

☐ Annuity(ies) - Fixed ☐ Derivative(s) ☐ Investment Contract(s)
☐ Annuity(ies) - Variable ☐ Direct Investment(s) - DPP & LP Interest(s) ☐ Money Market Fund(s)
☐ CD(s) ☐ Equity - OTC ☐ Mutual Fund(s)
☐ Commodity Option(s) ☐ Equity Listed (Common & Preferred Stock) ☐ No Product
☐ Debt - Asset Backed ☐ Futures - Commodity ☐ Options
☐ Debt - Corporate ☐ Futures - Financial ☐ Penny Stock(s)
☐ Debt - Government ☐ Index Option(s) ☐ Unit Investment Trust(s)
☐ Debt - Municipal ☐ Insurance ☐ Other _____

Other Product Types:

5. Formal Action was brought in (include name of Federal, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case Number):

6. *Control Affiliate* Employing Firm when activity occurred which led to the civil judicial action (if applicable):

7. Describe the allegations related to this civil action. (The information must fit within the space provided.):

8. Current Status? ☐ Pending ☐ On Appeal ☐ Final

9. If on appeal, action appealed to (provide name of court): Date Appeal Filed (MM/DD/YYYY):

10. If pending, date notice/process was served (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

(continued)

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (BD)

(continuation)

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 14 only.

11. How was matter resolved: (check appropriate item)

☐ Consent ☐ Judgment Rendered ☐ Settled
☐ Dismissed ☐ Opinion ☐ Withdrawn ☐ Other _____

12. Resolution Date (MM/DD/YYYY): _____ ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

13. **Resolution Detail:**

A. Were any of the following Sanctions Ordered or Relief Granted? (Check appropriate items):

☐ Monetary/Fine ☐ Revocation/Expulsion/Denial ☐ Disgorgement/Restitution
Amount $ _____ ☐ Censure ☐ Cease and Desist/injunction ☐ Bar ☐ Suspension

B. Other Sanctions:

C. Sanction detail: if suspended, *enjoined* or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against *applicant* or *control affiliate,* date paid and if any portion of penalty was waived:

14. Provide a brief summary of circumstances related to action(s), allegation(s), disposition(s) and/or finding(s) disclosed above. (The information must fit within the space provided.):

BANKRUPTCY / SIPC DISCLOSURE REPORTING PAGE (BD)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP BD) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses *to* ***Item 11I*** of Form BD;

Check ☑ item(s) being responded to:

11I In the past ten years has the *applicant* or a *control affiliate* of the *applicant* ever been a securities firm or a *control affiliate* of a securities firm that:

☐ (1) has been the subject of a bankruptcy petition?

☐ (2) has had a trustee appointed or a direct payment procedure initiated under the Securities Investor Protection Act?

Use a separate DRP for each event or *proceeding.* An event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

It is not a requirement that documents be provided for each event or *proceeding.* Should they be provided, they will not be accepted as disclosure in lieu of answering the questions on this DRP.

If a *control affiliate* is an individual or organization registered through the CRD, such *control affiliate* need only complete Part I of the *applicant's* appropriate DRP (BD). Details of the event must be submitted on the *control affiliate's* appropriate DRP (BD) or DRP (U-4). If a *control affiliate* is an individual or organization not registered through the CRD, provide complete answers to all the items on the *applicant's* appropriate DRP (BD). The completion of this DRP does not relieve the *control affiliate* of its obligation to update its CRD records.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):

☐ The *Applicant*

☐ *Applicant* and one or more *control affiliate(s)*

☐ One or more *control affiliate(s)*

If this DRP is being filed for a *control affiliate*, give the full name of the *control affiliate* below (for individuals, Last name, First name, Middle name).

If the *control affiliate* is registered with the CRD, provide the CRD number. If not, indicate "non-registered" by checking the appropriate checkbox.

NAME OF *APPLICANT*	*APPLICANT* CRD NUMBER

BD DRP - CONTROL *AFFILIATE*

CRD NUMBER

This *Control Affiliate* is ☐ Firm ☐ Individual

Registered: ☐ Yes ☐ No

NAME (For individuals, Last, First, Middle)

☐ This DRP should be removed from the BD record because the *control affiliate(s)* are no longer associated with the BD.

B. If the *control affiliate* is registered through the CRD, has the *control affiliate* submitted a DRP (with Form U-4) or BD DRP to the CRD System for the event? If the answer is "Yes," no other information on this DRP must be provided.

☐ Yes ☐ No

NOTE: The completion of this Form does not relieve the *control affiliate* of its obligation to update its CRD records.

PART II

1. Action Type: (check appropriate item)

☐ Bankruptcy ☐ Declaration ☐ Receivership

☐ Compromise ☐ Liquidated ☐ Other _____

2. Action Date (MM/DD/YYYY): _____ ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

(continued)

BANKRUPTCY / SIPC DISCLOSURE REPORTING PAGE (BD)

(continuation)

3. If the financial action relates to an organization over which the *applicant* or *control affiliate* exercise(d) *control*, enter organization name and the *applicant's* or *control affiliate's* position, title or relationship:

Was the Organization *investment-related*? ☐ Yes ☐ No

4. Court action brought in (Name of Federal, State or Foreign Court), Location of Court (City or County and State or Country), Docket/Case Number and Bankruptcy Chapter Number (if Federal Bankruptcy Filing):

5. Is action currently pending? ☐ Yes ☐ No

6. If not pending, provide Disposition Type: (check appropriate item)

☐ Direct Payment Procedure ☐ Dismissed ☐ Satisfied/Released
☐ Discharged ☐ Dissolved ☐ SIPA Trustee Appointed ☐ Other _____

7. Disposition Date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

8. Provide a brief summary of events leading to the action and if not discharged, explain. (The information must fit within the space provided.):

9. If a SIPA trustee was appointed or a direct payment procedure was begun, enter the amount paid or agreed to be paid by you; or the name of the trustee:

Currently Open? ☐ Yes ☐ No

Date Direct Payment Initiated/Filed or Trustee Appointed (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

10. Provide details to any status/disposition. Include details as to creditors, terms, conditions, amounts due and settlement schedule (if applicable). (The information must fit within the space provided.)

BOND DISCLOSURE REPORTING PAGE (BD)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP BD) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to ***Item 11J*** of Form BD;

Check ☑ item(s) being responded to:

11J ☐ Has a bonding company ever denied, paid out on, or revoked a bond for the *applicant*?

Use a separate DRP for each event or *proceeding*. An event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

It is not a requirement that documents be provided for each event or *proceeding*. Should they be provided, they will not be accepted as disclosure in lieu of answering the questions on this DRP.

NAME OF *APPLICANT*	*APPLICANT* CRD NUMBER

1. Firm Name: (Policy Holder)

2. Bonding Company Name:

3. Disposition Type: (check appropriate item)

☐ Denied ☐ Payout ☐ Revoked

4. Disposition Date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

5. If disposition resulted in Payout, list Payout Amount and Date Paid:

6. Summarize the details of circumstances leading to the necessity of the bonding company action: (The information must fit within the space provided.)

JUDGMENT / LIEN DISCLOSURE REPORTING PAGE (BD)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP BD) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to ***Item 11K*** of Form BD;

Check ☑ item(s) being responded to:

11K ☐ Does the *applicant* have any unsatisfied judgments or liens against it?

Use a separate DRP for each event or *proceeding*. An event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

It is not a requirement that documents be provided for each event or *proceeding*. Should they be provided, they will not be accepted as disclosure in lieu of answering the questions on this DRP.

NAME OF *APPLICANT*	*APPLICANT* CRD NUMBER

1. Judgment/Lien Amount:

2. Judgment/Lien Holder:

3. Judgment/Lien Type: (check appropriate item)

☐ Civil ☐ Default ☐ Tax

4. Date Filed (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

5. Is Judgment/Lien outstanding? ☐ Yes ☐ No

If No, provide status date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

If No, how was matter resolved? (check appropriate item)

☐ Discharged ☐ Released ☐ Removed ☐ Satisfied

6. Court (Name of Federal, State or Foreign Court), Location of Court (City or County and State or Country) and Docket/Case Number:

7. Provide a brief summary of events leading to the action and any payment schedule details including current status (if applicable). (The information must fit within the space provided.):

[FR Doc. 01–15978 Filed 6–25–01; 8:45 am]
BILLING CODE 8010–01–C

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Air quality implementation plans; approval and promulgation; various States:
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